

## EXTRAORDINARY PLANNING COMMITTEE – 8 FEBRUARY 2022

### PART I -DELEGATED

4. **21/0573/FUL - Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works, at DEVELOPMENT SITE, MAPLE LODGE, MAPLE LODGE CLOSE, MAPLE CROSS, HERTFORDSHIRE (DCES)**

Parish: Non-Parished

Ward: Chorleywood South & Maple Cross

Expiry of Statutory Period: 29.10.2021 (Agreed Extension)

Case Officer: Claire Westwood

**Recommendation: That the decision be delegated to the Director of Community and Environmental Services to write to the Planning Inspectorate to confirm that in the absence of an appeal against non-determination, planning permission would have been GRANTED, subject to conditions (see section 8 below) and subject to the completion of a S106 Agreement.**

Reason for consideration by the Committee: Called in by 3 Members of the Planning Committee in view of considerable amount of public interest in the previous application for substantial warehouses on this site and the concerns about impact on neighbour amenity.

#### UPDATE

The application was brought to Planning Committee in October 2021 where it was recommended for approval by officers subject to conditions and subject to the completion of a Section 106 Agreement. At that meeting Members resolved to defer the application for the Council to instruct their own expert hydrogeologist or similar to review the application on grounds that Members were not satisfied that the risks of development to the Maple Lodge Nature Reserve had been fully understood or that the suggested conditions would meet / overcome concerns.

The Council has instructed a Hydrogeologist to review the application and this work is ongoing. The Council is also looking to instruct an ecologist. As the work is not yet complete, the outcome of these reviews are not yet available to the Council.

The Local Planning Authority has received notification from the Planning Inspectorate that an appeal has been lodged by the applicant against the failure of the Local Planning Authority to give notice of its decision within the appropriate period. In order that the Local Planning Authority can provide its Statement of Case by 24 February 2022 (in accordance with the timetable issued by the Planning Inspectorate), it is necessary for Members of the Planning Committee to reconsider the application and consider how they would have determined the application had an appeal against non-determination not been lodged.

As summarised above and supported by the analysis below, Officers recommend that it is confirmed to the Planning Inspectorate that in the absence of an appeal against non-determination, planning permission would have been granted subject to the conditions set out at section 8 below and subject to the completion of a S106 Agreement.

Should Members of the Planning Committee have resolved to come to a different decision to Officers, it is necessary that any suggested reason(s) for refusal are determined by the Committee at the meeting.

Environment Bill

It is also relevant to note that since the October 2021 Planning Committee meeting the Environment Bill received Royal Assent on 9 November 2021, meaning it is now an Act of Parliament. Mandatory Biodiversity Net Gain (BNG) applies only in England following amendments to the Town and Country Planning Act and is likely to become law in 2023. Section 7.12 (Wildlife and Biodiversity) below has been updated.

## **1 Relevant Planning History**

1.1 19/2106/EIA - Request for Screening Opinion. Not EIA development.

1.2 19/1179/FUL - Comprehensive redevelopment to provide 2 no. warehouse Class B1c/B2/B8 units comprising a total of 16,140 sqm including 1,986 sqm ancillary B1a office space, access, landscaping and associated works. Refused 19.11.2019 for the following reasons;

1. (Trees) *The development would result in the loss of protected trees and fails to demonstrate that other protected trees would not be harmed as a consequence of the proposal. The development therefore fails to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

2. (Sustainable Transport) *In order to maximize sustainable travel options, a financial contribution towards supporting the implementation, processing and monitoring of a full travel plan is required. In the absence of a signed agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the development fails to meet this requirement. The application therefore fails to meet the requirements of Policies CP1, CP8 and CP10 of the Core Strategy (adopted October 2011) and the NPPF (2019).*

3. (Drainage) *It has not been demonstrated that surface water run-off can be adequately handled within the site, and that the development will not result in flooding of adjacent properties and within the site itself. Accordingly the development fails to comply with Policy CP1 of the Core Strategy (adopted October 2011), Policy DM8 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

4. (Groundwater) *It has not been demonstrated that the proposed development, particularly due to the proposed use of piling and the dewatering of the site, would not have an adverse impact on the amount and quality of groundwater, any impacts on which has the potential to adversely impact the public water supply and adjacent Local Wildlife Site. Accordingly the development fails to comply with Policies CP1 and CP9 of the Core Strategy (adopted October 2011), Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

5. (Biodiversity Net Gain) *In the absence of a signed agreement under the provisions of Section 106 of Town and Country Planning Act 1990, the application does not provide net gain for biodiversity and therefore fails to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).*

6. (Residential Amenity) *The proposed development by virtue of its mass, bulk, height and design, and proximity to the western site boundary would result in an overbearing, visually intrusive and unneighbourly form of development to the detriment of the residential amenities of occupiers of No. 19 Longmore Close. The development would therefore be contrary to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and the NPPF (2019).*

7. (Heritage) *The proposed development, by reasons of scale and design with block-like appearance, would detract from the overall appearance of the wider landscape and result in less than substantial harm to the setting and significance of the Grade II Listed Maple Lodge Farm and Maple Lodge Barn. The harm is not considered to be outweighed by public benefits and the proposed development is therefore considered to be contrary to Policy CP1 of the Core Strategy (adopted October 2011), Policy DM3 of the Development Management Policies DPD and paragraph 196 of the NPPF (2019).*

- 1.3 An appeal was subsequently lodged against the refusal of planning application 19/1179/FUL and was dealt with by way of an Informal Hearing.
- 1.4 A signed Unilateral Undertaking was submitted with the appeal to secure contributions in relation to sustainable transport and biodiversity net gain. As such reasons for refusal (2) and (5) were considered by the Local Planning Authority (LPA) to have been addressed.
- 1.5 Similarly, following the receipt of additional information, HCC as Lead Local Flood Authority (LLFA) removed their objection subject to conditions and therefore reason for refusal (3) was also considered by the LPA to have been addressed.
- 1.6 Reasons for refusal 1 (trees), 4 (groundwater), 6 (residential amenity) and 7 (heritage) were defended by the LPA at the appeal Hearing.
- 1.7 The appeal was dismissed on 19.12.2019 solely in relation to reason for refusal 4 (groundwater). The appeal decision is discussed in more detail in the relevant sections of the analysis below.

## **2 Description of Application Site**

- 2.1 The site comprises an undeveloped open grassed area of approximately 3.4 hectares. Mature trees and vegetation align the eastern, southern and western site boundaries, some of these are protected. The site is accessed via an existing access road leading from the A412 (Denham Way). There is informal pedestrian access to the site but no existing vehicular crossovers. The access road serves the Thames Water Treatment Works which lie to the south east beyond a further undeveloped site. Further south, there is a locally designated nature reserve and wildlife site, Maple Lodge Nature Reserve.
- 2.2 To the north of the site is an area of land which fronts the A412 (Denham Way) which benefits from an extant planning permission which has been implemented (but not built out) for the erection of a hotel. To the east are open fields while to the north east there are two hanger style buildings which are established commercial premises and land which is used for vehicle storage which is subject of an open enforcement investigation/appeal. There are residential and commercial properties to the west of the site.
- 2.3 To the north and west of the site is Maple Cross/Maple Lodge Employment Site, a designated employment area within the Site Allocations Local Development Document (adopted October 2014) (site ref. E(d)) and of which the application site forms part.
- 2.4 The A412 (Denham Way) runs north to south through Maple Cross connecting Rickmansworth to the north and West Hyde to the south. It also provides access to Junction 17 of the M25 (approximately 1.5km north of the application site).
- 2.5 Whilst the majority of the site is outside of the Metropolitan Green Belt, the Green Belt does overlap the eastern site boundary and a narrow strip which is outlined in red on the submitted site location plan linking to Maple Lodge Close to the south. The Green Belt adjoins the southern and eastern site boundaries. The majority of the site is located within Flood Zone 1, however, a narrow strip to the eastern and southern boundaries lies within Flood Zone 2. The site lies within Groundwater Source Protection Zone 1. Maple Lodge

Farm Ditch Main River runs along the west boundary of the site. The site is located within the Colne Valley Regional Park.

### **3 Description of Proposed Development**

- 3.1 Planning permission is sought for the redevelopment of the site to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works. In summary, the proposed development comprises:
- Erection of 2 no. warehouse Class E(giii)/B2/B8 units comprising:
    - Unit 1 totalling 8,827sqm (GIA) including 1,004sqm ancillary office space
    - Unit 2 totalling 7,289sqm (GIA) including 878sqm ancillary office space;
  - 141 car parking spaces, including 29 active Electric Vehicle Charging spaces and 43 passive Electric Vehicle Charging Point provision;
  - 38 HGV (lorry) parking spaces;
  - Up to 57 long-term cycle parking spaces;
  - Integrated landscaping works; and
  - Associated technical works including provision of relevant accesses.
- 3.2 Unit 1 would be located to the north of the site. It would have a maximum width of approximately 96 metres (west to east) and a maximum depth of approximately 83 metres (north to south). The south-west corner of the building would be sited approximately 7.5 metres off the western site boundary.
- 3.3 Unit 1 would have a haunch height of 12.5 metres. It would comprise two shallow pitched roofs running east-west with a central valley. The roof would have an overall maximum height of 16 metres to the ridge. The northern (front) elevation would include 2 level access operational doors and 6 operational doors with dock levellers. Rooflights are proposed within the shallow pitched roof. Glazing (over 3 floors) is proposed to the northern and eastern elevations, wrapping around the north-east corner (this would serve the office areas). Rooflights are also proposed in the southern and western elevations. Personnel access doors are proposed to all elevations.
- 3.4 Unit 1 would be accessed via a new vehicular crossover from the existing access road. This would provide access to a car park to the eastern flank of the building which would provide 75 car parking spaces (including 4 disabled) and a cycle shelter. The new vehicular crossover would also provide access to a car park to the north of Unit 1 which would accommodate 21 HGV parking spaces/loading bays and 4 car parking spaces. A refuse store is also proposed within this area.
- 3.5 Unit 2 would be located to the south of the site. It would have a maximum width of approximately 97 metres (north to south) and a maximum depth of approximately 66 metres (east to west). The northwest corner would be sited 27 metres from the western boundary and the south west corner would be sited 16 metres from this boundary. Unit 2 would be located approximately 11 metres from the western boundary at the closest point.
- 3.6 Unit 2 would have a haunch height of 10 metres. It would comprise two shallow pitched roofs running north-south with a central valley. The roof would have an overall maximum height of 13 metres to the ridge. The eastern (front) elevation would include 2 level access operational doors and 6 operational doors with dock levellers. Glazing (over 3 floors) is proposed to the eastern and southern elevations, wrapping around the south-east corner (this would serve the office areas). Rooflights are proposed to the eastern, western and northern elevations. Personnel access doors are proposed to all elevations.
- 3.7 Unit 2 would be accessed via two new vehicular crossovers from the existing access road. The first would provide access to a car park to the front (east) of the building which would provide 15 car parking spaces, 17 HGV parking spaces/loading bays and a refuse store.

The second crossover would provide access to a smaller car park to the south-east which would provide 47 car parking spaces (including 4 disabled) and a cycle shelter.

- 3.8 Both Units are proposed to be finished in a mix of different insulated metal cladding, with a grey pallet with the main entrances emphasised by full height glazing systems. Three shades of grey are proposed to the elevations, with the darkest at the base and getting lighter as the building increases in height. The colours proposed are 'anthracite' to the base, 'merlin or pure grey' to the mid-section and 'hamlet' to the upper section. The roofs are to be finished with a profiled insulated metal cladding. Doors and windows will have a polyester powder coated finish.
- 3.9 The application proposes the removal of three category C trees and four category U trees and one category C and two category U groups to facilitate the proposed works, these are identified within the Tree Survey and Arboricultural Impact Assessment and are predominantly located to the west site boundary. A number of trees are also proposed to be retained, and these will be supplemented by additional planting, with soft landscaping proposed around the Units and perimeter of the site. 46 new trees are proposed to the perimeter of the site to supplement the retained vegetation.
- 3.10 Highways works proposed include the widening of the existing access road to provide a new footpath and provision of three vehicular crossovers to access the site.
- 3.11 The application is accompanied by technical reports, a full list of those submitted at the time of validation is provided in the covering letter dated 4 March 2021. Any updated/amended/additional documents or reports are available to view online with the application documents.
- 3.12 The proposed development remains the same as the refused application (LPA ref. 19/1179/FUL)/appeal scheme in terms of scale, layout and massing, with only minor amendments to car parking layouts and entrances.

## 4 Consultation

### 4.1 Summary of Consultation Responses

|   |        |                      |
|---|--------|----------------------|
| Affinity Water  | 4.2.7  | No objection         |
| Colne Valley Partnership                                    | 4.2.16 | Objection            |
| Environment Agency  | 4.2.3  | No objection         |
| Herts & Middlesex Wildlife Trust                            | 4.2.21 | Objection            |
| Hertfordshire Constabulary                                  | 4.2.20 | No objection         |
| Hertfordshire County Council – Growth & Infrastructure Unit | 4.2.18 | No objection         |
| Hertfordshire County Council – Highway Authority            | 4.2.1  | No objection         |
| Hertfordshire County Council – Lead Local Flood Authority   | 4.2.4  | No objection         |
| Hertfordshire County Council – Waste & Minerals Team        | 4.2.19 | No objection         |
| Hertfordshire Ecology                                       | 4.2.5  | Advisory Comments    |
| Highways England  | 4.2.2  | No objection         |
| London Borough of Hillingdon                                | 4.2.14 | No objection         |
| Maple Lodge Conservation Society                            | 4.2.22 | Objection            |
| Natural England   | 4.2.23 | No objection         |
| National Grid   | 4.2.8  | No response received |
| Thames Water  | 4.2.10 | No objection         |
| Three Rivers District Council – Heritage Officer            | 4.2.17 | No objection         |
| Three Rivers District Council – Development Plans           | 4.2.6  | No objection         |

|  |        |                      |
|--|--------|----------------------|
| Three Rivers District Council – Environmental Health (Residential) | 4.2.11 | No objection         |
| Three Rivers District Council – Environmental Protection           | 4.2.13 | No objection         |
| Three Rivers District Council – Landscape Officer                  | 4.2.9  | No objection         |
| Three Rivers District Council – Traffic Engineer                   | 4.2.15 | No response received |
| Watford Borough Council – Environmental Health (Commercial)        | 4.2.12 | No objection         |

## 4.2 Consultation Responses

4.2.1 Hertfordshire County Council – Highway Authority: [No objection subject to conditions]

4.2.1.1 Initial comment 31.03.2021: [No objection subject to conditions]

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:

a. Details and further information as to how vehicle access to the development site would be restricted from using Maple Lodge Close.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Note: Maple Lodge Close is a private road and not highway maintainable at public expense. Therefore HCC as Highway Authority would not be able to enforce any restrictions over the private access road. Nevertheless the Highway Authority would encourage and support restrictions for vehicles to the development site via this route through the whole construction period and use as the route is not considered to be acceptable to support the level and type of vehicles associated with the proposed use.

### 2. A. Highway Improvements – Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

### B. Highway Improvements – Offsite (Implementation / Construction)

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).

### 3. Provision of Parking & Access

Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

#### 4. Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type, routeing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste);
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

#### **Planning Obligations**

A Full Travel Plan would be required to be in place from first occupation until 5 years post full occupation. A £1,200 per annum (index-linked RPI March 2014) Evaluation and Support Fee would need to be secured via a Section 106 agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. For further information please see the following link <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing [travelplans@hertfordshire.gov.uk](mailto:travelplans@hertfordshire.gov.uk)

#### **Highway Informatives**

Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN1) Construction standards for works within the highway (s278 works):

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047

## **Comments / Analysis**

The application comprises of the construction of two warehouse units with office space, access and associated works at a development site at the north eastern side of Maple Cross village. The site is currently unoccupied and the land is zoned as an allocated employment site as part of Three Rivers District Council (TRDC)'s Local Plan.

A previous application for the site (planning ref. 19/1179/FUL) was refused, the decision of which was upheld at appeal in relation to piling and ground water. HCC as Highway Authority did not object to the application subject to recommended conditions, off-site highway works and a Section 106 planning obligation towards a full travel plan.

A Transport Assessment (TA), Framework Travel Plan (FTP) and Construction Logistics Management Plan (CLMP) have been submitted as part of the application documents. The TA has been updated from the previous application taking into consideration both the original TA and TA Addendum.

### Existing Access

The site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycleway/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction.

There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway. On previous site visits it has been observed that vehicles are regularly parked on much of the length of the private footway.

The site can also be accessed via Maple Lodge Close, which is a private road and not highway maintainable at public expense. However this route is not suitable to provide vehicle access to the development site and HCC as Highway Authority would therefore request details as to how vehicles accessing the proposed use would be restricted from using Maple Lodge Close, although this would not be something that the Highway Authority would be able to enforce due to the private nature of the road.

### Existing Trip Generation

As the site is currently unoccupied, the applicant has not provided any existing trip generation for the proposed development site, which is considered to be acceptable.

### Proposed Trip Generation

The TRICS database has been used to calculate the expected trip generation in Section 6 of the TA. This has included a calculation for both weekday AM and PM peak hours, which is acceptable.

### Scoping Note – B8 Trip Generation



The applicant developed a Scoping Note (copy in Appendix 2 of the TA) subject to and agreed as part of pre-application discussions with HCC as Highway Authority in November /December 2018, which outlines the anticipated trip generation of the proposed development site based on a GFA of 15,500 sqm and a B8 land use. The applicant has stated that to be robust in their approach, they applied the 85th percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development.

It is also noted that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis the TRICs reports would normally need to be updated as there are new sites in TRICs to be considered and the search should exclude Greater London (the current submitted TA states that "all sites in Greater London....have been deselected" although this is not the case according to the submitted data). However HCC have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC's interrogation as those presented in the TA and are as follows:

#### AM Peak

- Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips

- Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips

#### PM Peak

- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips

- Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.

#### Proposed Trip Generation

The applicant has used the same trip rates used by the original scoping note to calculate trip generation for the actual gross floor area of the current proposals of 16,570sqm. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate. For reference, the TRICs parameters, peak hour trip rates and anticipated trip generation for a 16,570 sqm floor area are as follows:

#### AM Peak

- Vehicle trips (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips

- Vehicle trips (16,570 sqm): 105 arrivals, 14 departures resulting in 119 two-way trips

#### PM Peak

- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips

- Vehicle trips (16,570 sqm): 9 arrivals, 101 departures resulting in 110 two-way trips

Following a review of the traffic generation, it is considered that the information provided is acceptable and HCC as Highway Authority would not have an objection to the methods used as per the previous application also (planning ref. 19/1179/FUL).

#### Junction Modelling

An assumed opening year (2022) and 2031 assessment of the local highway network have been completed. PICADY and ARCADY model assessments using baseline traffic data, TEMPRO growth factors and the above TRICs vehicle trip rates, have been prepared for the A412 / private site access road T-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA.

Following a review of the TA, it is considered that each model is acceptable and they have considered the impact of surrounding committed developments including HS2 construction traffic movements. The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCC as Highway Authority. Highways England would also need to be satisfied with the approach and results, specifically for the M25 junction.

The results do identify capacity issues at the A412 and private access road T-junction and therefore necessitating off-site highway works at this junction. These works are considered in further detail below and would be necessary to make overall proposals acceptable.

### Proposed Access

The proposals include extending the existing private access road to run along the full front of the site in addition to a new footway on the western/development side of carriageway. There are three proposed vehicle entrances / exits from the private road providing access to three separate car parks fronting the two warehouses. The general layout is shown on submitted drawing no.17019-C4P-AV-00-DR-A-0500 P16.

The proposed access arrangements including details of kerb radii, visibility splays and widths are shown on submitted plan numbers MLC-BWB-GEN-XX-DR-TR-100 S2 rev. P5 and MLC-BWB-GEN-XX-DR-TR-101 rev. P5 and described in section 5.4 of the Transport Assessment. Following assessment and review of the proposals, the access arrangements on the proposed access road and within the site are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.

Vehicle tracking / swept path analysis has been included as part of the submitted TA (drawing number MLC-BWB-GEN-XX-DR-TR-110 rev. P5). The details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site accesses in addition to a car moving in and out of the car park only access.

It is unlikely that HCC as Highway Authority would agree to adopt the new and existing industrial access roads if they were ever offered for dedication as the proposals would not demonstrate a utility to the wider public as outlined in Roads in Hertfordshire (Sec. 3, 12.3). The developer would need to put in place a permanent arrangement for long term maintenance and the road name plate would need to indicate that it is a private road.

### Highway Mitigation Works

The proposed off-site highway mitigation works are shown on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 P3 and summarised in section 8.4 of the TA. The proposed works, which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway work (as indicated by the capacity issues identified in sections 7.11 to 7.14 of the TA) .

The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan (LTP4) and the National Planning Policy Framework (NPPF). A LinSig model for the proposed signalised junction has been included in the TA and illustrates that the proposed highway scheme operates within capacity, the details of which are considered acceptable by HCC as Highway Authority.

Nevertheless the applicant would need to enter into a Section 278 Agreement with HCC as Highway Authority in relation to the design and implementation of the necessary off-site

highway works. The highway design would be subject to a detailed review and road safety audits as part of the Section 278 agreement process and would include the following works:

- The signalization of the junction of Denham Way (A412) and the private access road and any associated carriageway widening or alterations at the junction and the Maple Cross roundabout;
- The provision of two toucan crossings (one across Denham Way and one across the mouth / entrance of the private access road) to replace the two existing pedestrian signalized crossings on Denham Way;
- The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.

It would be recommended that a Stage One Road Safety Audit for the proposed highway works is submitted and included as part of the initial 278 application.

Please also refer to the recommended conditions 1 and 2 and the suggested highway informative.

There have been some concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross specifically for pedestrians. Following consideration that the majority of vehicles associated with the development would travel via the M25 and Maple Cross roundabout to the site in accordance with the road hierarchy, it is not anticipated that a significant number of vehicles would travel through Maple Cross and therefore the impact in this respect would not be severe.

Nevertheless in response to those occasions where vehicles would need to travel through Maple Cross, a LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple Lodge Close junction and the results in the submitted TA (sections 7.22 to 7.27) show that the junction works within capacity and the proposals would not have demonstrable impact on the functioning of this junction.

Furthermore, the proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety has previously been requested by HCC and agreed as part of the pre-application discussions to take into consideration any adverse impacts from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective. The proposed highway improvements would also have the additional benefit of improving the accessibility and safety for those pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School).

### Car Parking Level and Design

The proposals include the provision of 142 car parking spaces and 38 HGV parking spaces – split over the two proposed units, the layout of which is shown on submitted plan no. 17019-C4P-AV-00-DR-A-0500. The area directly to the north and east of the site is located in accessibility zone 3 as documented in Three Rivers District Council's (TRDC) Development Management Policies: Local Development Document, although the site itself is not within the zone 3 area and on the edge of an urban area. The levels of car parking have been based on guidance for zone type 3, which states that the car parking levels may be adjusted to 50-75% of the indicative demand-based standard.

Following consideration of the use class, location and details submitted in Section 5.5 to 5.9 of the Transport Assessment, HCC as Highway Authority would not have an objection to the overall level of parking and the layout is acceptable and in accordance with MfS. All vehicles would be able to access the site, turn around and egress to the network in forward gear. Nevertheless TRDC as the planning and parking authority would ultimately need to be satisfied with the overall level of car parking.

The TA (sec. 5.14) states that 20% of all car parking spaces would have provision for active electric vehicle charging (EVC) whilst a further 20 to 30% of spaces would have passive EVC provision. HCC as Highway Authority would be supportive of this to ensure that the development is in accordance with LTP4 and HCC'S Sustainability Strategy.

### Accessibility & Sustainability

The site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site.

The site is therefore within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north in Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. HCC as Highway Authority would however recommend that measures are explored to ensure that the existing (and new extended) footway on the private access road is kept free of car parking – this would require discussion with the land owners of the existing private access road.

The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. This is acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still within an acceptable level.

The proposals include the provision of 57 cycle parking spaces, which is considered acceptable at this stage. The recommended levels for cycle parking are normally based on the number of full time staff members, the details of which are not yet known for the application site at this stage of the application. HCC as Highway Authority would recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members. This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site and to ensure that the development is in accordance with NPPF and LTP4.

National Cycle Route 6 is located approximately 1km from the site by bike (accessed via Denham Way, Uxbridge Road and Springwell Lane), which therefore demonstrates that the wider cycle network could be utilised as a form of travel to and from the site, particularly for any future employees.

### Planning Obligations – Travel Plan

TRDC has adopted the Community Infrastructure Levy (CIL) and therefore contributions towards local transport schemes as outlined in the South West Herts Growth & Transport Plan would be sought via CIL in appropriate.

A Framework Travel Plan (FTP) has been submitted as part of the application and is considered to be generally acceptable at this stage of the application/ development. Nevertheless the following amendments would be required to be submitted in an amended FTP prior to occupation:

- Local Policy Context should include LTP4 strategy.
- A statement of senior commitment is required within the FTP stating that developers/ businesses are committed to implementing the travel plan.
- Freight and delivery measures should be included with the TP if appropriate.

- If the employment figures are low, it is recommended to consider car park management as an oversupply of parking spaces may encourage car use.
- Staff surveys should be collected annually.
- Multi modal surveys should be carried out every other year (in years 1, 3 and 5 of travel plan monitoring).
- It should be noted in the FTP that annual monitoring reports should/ will be shared with HCC at least 3 months after completion.

Following consideration of the size and nature of the development, developer contributions of £6000 (£1,200 per annum for a five year period and index linked RPI from March 2014) are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of the FTP including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing [travelplan@hertfordshire.gov.uk](mailto:travelplan@hertfordshire.gov.uk)

The request for a financial contribution via a planning obligation under section 106 (Town and Country Planning Act 1990) for a travel plan meets the 3 tests as outlined in regulation 122(2) of The Community Infrastructure Levy Regulations 2010 (as amended) as follows:

a) it is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and LTP4. NPPF states that “all developments that will generate significant amounts of movement should be required to provide a Travel Plan”. The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition particularly in relation to the implementation and monitoring of the plan.

b) it is directly related to the development because the travel plan would provide a long-term management strategy for the site and its proposed use as an employment site. The travel plan would support the need to secure specific objectives, targets and commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by: employees commuting to and from the site; visitor movements and freight/delivery movements.

c) it is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated level of financial contribution as laid out in Hertfordshire County Council’s Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is “the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a minimum period of 5 years” TPG, 2020.

The monitoring and enforcement of travel plans is not a statutory function of HCC and therefore it is justified to request a reasonable level of contribution to support this. Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power to but not the duty to, provide.

### Construction Logistics Management Plan

The general details submitted in the CLMP are considered to be acceptable by HCC as Highway Authority. Nevertheless the applicant would be required to submit a full Construction Management Plan with more specific information (as detailed in the enclosed recommended condition). The details would need to be approved in writing by the planning and highway authority prior to the commencement of any works on site.

## Conclusion

HCC as Highway Authority can only recommend the refusal of planning permission or object to the proposals in the context of paragraph 109, National Planning Policy Framework (NPPF) (update 2019), which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". In this context, following consideration of the above points, there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective, particularly as the site is a previously approved allocated employment site. Nevertheless the acceptability of the proposals would be subject to the approval and completion of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informative.

### 4.2.1.2 Further comment 07.04.2021: [Additional information requested]

A couple of supplemental recommendations and comments in respect of the above application.

#### Permitted Hotel Development

Following consideration of the permitted hotel development (which was granted planning permission in 2008 and then subsequently confirmed in 2018 through the issuing of the Certificate of Lawfulness as part of application 18/1424/CLPD), HCC as Highway Authority (HA) are requesting that the applicant submit the following as an addendum to the full Transport Assessment (TA):

- . TRICs assessment for a hotel of the permitted size for both the AM and PM peak;
- . Updated Linsig model and results for the proposed signalised junction at Denham Way / Private Access road, factoring in the additional predicted trips from the hotel site.

It is acknowledged that no trip generation was submitted as part of the original planning application for the hotel in 2007 (07/1401/FUL) nor requested by the HA at that time. Nevertheless due to the original planning permission being granted 14 years ago, it would enable a robust assessment of the proposed signalised junction in the context of the current application (21/0573/FUL) and other committed developments in the area.

In the absence of the HA being consulted on the CoL, our Authority were unaware that the 2007 consent was considered committed. The HA does recognise that the TA for 21/0573/FUL has acknowledged the hotel development, but that it has failed to provide any traffic generation associated.

#### Trip Rates to the Thames Water Sewage Works

We have had a number of queries from local residents in relation to a apparent increase in the number of trips by Thames Water to and from their Sewage Works site via Maple Lodge Close. Are you aware of any material changes to the Thames Water site that may have resulted in an increase in trips?

### 4.2.1.3 Further comment 12.05.2021: [No objection subject to conditions]

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

#### 1. A. Highway Improvements – Offsite (Design Approval)

*Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority.*

**B. Highway Improvements – Offsite (Implementation / Construction)**

*Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.*

*Reason: To ensure construction of a satisfactory development and to ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 1, 5, 7, 8, 13 and 21 of Hertfordshire's Local Transport Plan (adopted 2018).*

**2. Provision of Parking & Access**

*Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.*

*Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).*

**3. Construction Management Plan**

*No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:*

- a. Construction vehicle numbers, type, routing;*
- b. Access arrangements to the site;*
- c. Traffic management requirements*
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);*
- e. Siting and details of wheel washing facilities;*
- f. Cleaning of site entrances, site tracks and the adjacent public highway;*
- g. Timing of construction activities (including delivery times and removal of waste);*
- h. Provision of sufficient on-site parking prior to commencement of construction activities;*
- i. Post construction reinstatement of the working areas and/or temporary access to the highway;*

*Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).*

**Planning Obligations**

A Full Travel Plan would be required to be in place from first occupation until 5 years post full occupation. A £1,200 per annum (index-linked RPI March 2014) Evaluation and Support Fee would need to be secured via a Section 106 agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. For further information please see the following link <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing [travelplans@hertfordshire.gov.uk](mailto:travelplans@hertfordshire.gov.uk)

**Highway Informatives**

Hertfordshire County Council (HCC) recommends inclusion of the following highway informative / advisory note (AN) to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

AN) Construction standards for works within the highway (s278 works):

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

## **Comments / Analysis**

### **1. Introduction**

The application comprises of the construction of two warehouse units with office space, access and associated works at a development site at the north eastern side of Maple Cross village. The site is currently unoccupied and the land is zoned as an allocated employment site as part of Three Rivers District Council (TRDC)'s Local Plan.

A previous application for the site for a development of two warehouse units class B1c/B2/B8 (planning ref. 19/1179/FUL) was refused planning permission in November 2019, the decision of which was upheld at appeal in relation to piling and ground water. HCC as Highway Authority did not object to the application subject to recommended conditions, off-site highway works and a Section 106 planning obligation towards a full travel plan.

A Transport Assessment (TA), Framework Travel Plan (FTP) and Construction Logistics Management Plan (CLMP) have been submitted as part of the application documents. The TA has been updated from the previous application taking into consideration both the original TA and TA Addendum.

Following consideration of the permitted hotel development located on the corner of the Denham Way / private access road (which was granted planning permission in 2008 and then subsequently confirmed in 2018 through the issuing of the Certificate of Lawfulness as part of application 18/1424/CLPD), HCC as HA requested (on 07/04/2021) the following information to be provided and submitted by the applicant including:

- Trip generation assessment for a hotel of the permitted size for both the AM and PM peak;
- Updated Linsig model and results for the proposed signalised junction at Denham Way / Private Access road, factoring in the additional predicted trips from the hotel site.

It is acknowledged by HCC as HA that no trip generation was submitted as part of the original planning application for the hotel in 2007 (07/1401/FUL) nor requested by the HA at that time. Nevertheless due to the original planning permission being granted 14 years ago, it was requested to enable a robust assessment of the proposed signalised junction in the context of the current application (21/0573/FUL), other committed developments and the permitted hotel. In the absence of the HA being consulted on the Certificate of Lawfulness in 2018, this Authority was unaware that the 2007 consent was considered committed. The HA does recognise that the TA for 21/0573/FUL has acknowledged the hotel development, but that it has failed to provide any traffic generation associated.



An additional Transport Note (TN) dated 07/05/2021 has subsequently been submitted by BWB Consulting (on behalf of the applicant) in response to the request for this additional information and this response refers to both the original TA and the supplemental TN.

## **2. Existing Highway Network and Access**

The site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycleway/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction.

There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway. On previous site visits it has been observed that vehicles are regularly parked on much of the length of the private footway.

The site can also be accessed via Maple Lodge Close, which is a private road and not highway maintainable at public expense. However this route is not suitable to provide vehicle access to the development site and HCC as Highway Authority would therefore request details as to how vehicles accessing the proposed use would be restricted from using Maple Lodge Close, although this would not be something that the Highway Authority would be able to enforce due to the private nature of the road.

## **3. Trip / Traffic Generation**

### **a. Existing Trip Generation – application site**

As the application site is currently unoccupied, the applicant has not provided any existing trip generation for the proposed development site, which is considered to be acceptable.

### **b. Trip / Traffic Generation for the Proposed Use**

The TRICs (Trip Rate Information Computer System) database has been used to determine the anticipated traffic levels (including vehicle trip rates) for the proposed use (and is included as part of the submitted TA).

#### **• Pre-application Scoping Note – B8 Trip Generation**

The applicant developed a Scoping Note (copy in Appendix 2 of the TA) subject to and agreed as part of pre-application discussions with HCC as HA in November /December 2018, which outlines the anticipated trip generation of the proposed development site based on a GFA of 15,500 sqm and a B8 land use. The applicant has stated that to be robust in their approach, they applied the 85<sup>th</sup> percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development.

It is also noted that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis the TRICs reports would normally need to be updated as there are new sites in TRICs to be considered and the search should exclude Greater London (the current submitted TA states that “all sites in Greater London....have been deselected” although this is not the case according to the submitted data). However HCC have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC’s interrogation as those presented in the TA and are as follows:

#### ***AM Peak:***

***- Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips***

- Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips
- PM Peak:
- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips
- Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.

• Full Application - Site Trip Generation

The applicant has used the same trip rates used by the original scoping note to calculate trip generation for the actual gross floor area of the current proposals of 16,570sqm. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate. For reference, the TRICs parameters, peak hour trip rates and anticipated trip generation for a 16,570 sqm floor area are as follows:

AM Peak:

- Vehicle trips (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips
- Vehicle trips (16,570 sqm): 105 arrivals, 14 departures resulting in 119 two-way trips

PM Peak:

- Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips
- Vehicle trips (16,570 sqm): 9 arrivals, 101 departures resulting in 110 two-way trips

**The proposals have been predicted as generating up to 695 daily two way trips with 119 two-way trips in the AM peak (0800-0900) and 110 two-way trips in the PM peak (1700-1800) as summarised in table 5 of the TA.** None of these figures needs to be doubled as they are a total of both arrivals and departures. The peak hours assessment period was previously agreed by both HCC and Highways England.

The methodology used is considered robust and the results have been verified in TRICs by HCC as HA. The actual figure would most likely be lower due to the use of the 85th percentile rather than the mean, which provide a lower figure. The TA (and the methods within) would therefore be the normal method under which the trip generation would be robustly reviewed and assessed and the HA would not have an objection to the methods used as per the previous application also (planning ref. 19/1179/FUL). HCC as HA does not endorse, support or consider the vehicle movements from schedule 19/0333/SCH1 of the submitted Planning Noise Assessment as being appropriate, as they are not borne out by the predictions in TRICs.

• Proposed Hotel Trip / Traffic Generation

The TRICs database has been used to determine the predicted vehicle trip rates for the permitted hotel. The use of TRICs is the normal method under which the trip generation would be reviewed and assessed and therefore HCC as HA would not have an objection to the methods used in this respect.

The details of the methods used for the hotel development are summarised in section 3 of the submitted TN, including the criteria used and justification for the site selection. A full copy of the Hotel TRICs extracts is included in Appendix 2 of the TN.

TRICs selected four sites based on the appropriate criteria, of which one has been focused on for comparison. For reference, the TRICs parameters, peak hour vehicular trip rates and anticipated trip/traffic generation for the hotel is:

AM Peak (0800-0900):

- Vehicle trip rate (per 100sqm): 0.499 arrivals, 0.380 departures resulting in 0.879 two-way trips.

**- Total Vehicle trips (total based on number of bedrooms): 103 arrivals, 79 departures resulting in 182 two-way trips.**

- Total Vehicle trips (based on GFA of 13,289sqm): 66 arrivals, 50 departures resulting in 116 two-way trips.

PM Peak (1700-1800):

- Vehicle trip rate (per 100sqm): 0.153 arrivals, 0.374 departures resulting in 0.527 two-way trips.

**- Total Vehicle trips (total based on number of bedrooms): 32 arrivals, 77 departures resulting in 109 two-way trips.**

- Total Vehicle trips (based on GFA of 13,289sqm): 20 arrivals, 50 departures resulting in 70 two-way trips.

NOTE: THE VEHICLE TRIP FIGURES ABOVE ARE PER 100SQM BUT HAVE BEEN USED TO CALCULATE AGAINST THE NUMBER OF TOTAL BEDROOMS WHICH ACTUALLY PROVIDES A HIGHER TOTAL NUMBER OF TRIPS THAN IF USED AGAINST A TOTAL SIZE OF 13,289M<sup>2</sup>.

HCC as HA would normally ask for more than one site for comparison. Nevertheless following the justification for the site selection (sections 3.2 to 3.5 of the TN), in addition to an independent corroboration of the results in TRICs by HCC as HA, the methodology used and site selection is considered robust and acceptable.

Indeed the use of the one site results in a larger trip generation than that of the mean value of comparable sites and the use of trip rate per 100m<sup>2</sup> (multiplied by the number of bedrooms, which is what has been calculated above) forecasts a larger vehicle trip rate therefore worst case scenario. The vehicular trip rates used (GFA trip rate multiplied by bedrooms) are therefore considered robust in order for a full assessment of the impact on the surrounding highway network and proposed junction to be made.

#### **4. Impact on the Surrounding Highway Network and Junction Modelling**

##### **a. Baseline Traffic Data**

Baseline traffic flow data is used (which is actual recorded data not assumed) for existing traffic flows and the directional distribution of these flows on the surrounding highway network. The parameters for the necessary area, scope and duration of baseline traffic data was agreed between HCC as HA, Highways England and the applicant at the pre-application stage. As part of the assessment of the TA, the HA evaluates whether or not the baseline data used is sufficient and in accordance with any previous pre-app discussions. The HA also uses any of its own available traffic model data, recorded traffic flow data and accident data to assess and verify any submitted data in addition to identifying any known capacity or safety issues on the surrounding highway network.

The baseline data used for this application includes manual classified counts and existing baseline surveys from other sources (including data recorded and held by HCC as HA) and is detailed in section 3.12 to 3.14 and appendix 3 of the submitted TA. This baseline data would include existing traffic flows on the surrounding highway network including traffic from the Thames Water site; Hertford Place, Woodoaks Farm and any other existing uses.

Growth factors have then been used (as outlined in sections 6.6 to 6.7 of the TA) to determine suitable future growth rates for the recorded baseline traffic flows i.e. take into consideration any predicted future increase in the levels of traffic on the highway network. For this application future assessment years of 2022 and 2031 have been used and therefore the HA has assessed the acceptability of the proposals in the context of the baseline data and future assessment years to ensure a robust assessment of the any impacts.

The baseline data, assessment years and growth factors used in respect of this application are considered sufficient and acceptable.

#### b. Traffic Distribution / Directional Flow

In respect of the flow of traffic to and from the site, the application has not assumed that all traffic would access the application site via the M25. The submitted TA and subsequent TN take into consideration that a proportion of development traffic would access the site via the A412 to and from the south and the junction modelling included in the TA and TN reflect this. For example, the traffic flows in the TA show between 23% and 27% of development traffic would turn left in the peak hours when exiting onto the A412 (i.e. the direction of Maple Cross and not the M25). Furthermore the submitted TN shows that the baseline traffic flows + committed development (including the hotel) + proposed development + 2031 growth factors show a percentage flow of traffic from the south-west to and from the private access road (i.e. the direction of Maple Cross and not the M25) of between 20% to 26% for the AM and PM peak hours, which is consistent with this (refer to figure 5 and 6 of the TN for figures).

This is considered to be reasonable and robust when taking into consideration: that the 2031 model incorporates baseline (i.e. actual measured flows) in addition to the committed and proposed development; the status of Denham Way as part of the A road network and the close proximity of the site to the M25.

#### c. Junction Modelling

An assumed opening year (2022) and 2031 assessment of the local highway network have been completed as part of the TA and subsequent TN, which is an acceptable scope to assess the current and future impacts of the development on the surrounding highway network. PICADY (for priority junctions), ARCADY (for roundabouts) and LinSig (for traffic signalized junctions) model assessments have been prepared for the A412 / private site access road t-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA. The junctions have been modelled using baseline traffic data, committed developments (including HS2 and the Reach Free School) TEMPRO growth factors and the above TRICs vehicle trip rates. The models take into consideration the actual features and constraints of a junction and therefore reflect how existing junctions work and how any design proposals would operate if implemented.

The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCC as HA. A LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple Lodge Close junction and the results in the submitted TA (sections 7.22 to 7.27) show that the junction works within capacity.

Highways England would also need to be satisfied with the modelling approach and results, specifically for the M25 junction.

A Junctions 9 PICADY assessment has been included in both the TA and the TN to assess the operation of the existing A412 / site access road ghost island priority-controlled junction, which would provide access to both the consented hotel and the proposed warehouse development. The results identify significant capacity issues when using the current layout of the junction. Consequently, off-site highway works at this junction have previously been deemed necessary for the proposed warehouse development (and agreed in principle) and would have the additional benefit of improving the access arrangements for the permitted hotel. Further details on the proposed off-site highway works are included in section 5a of this response.

A LinSig model assessment has been carried out to assess the performance and functioning of the proposed signalization of the A412/site access junction, which is part of

the proposed off-site highway works (the full results of which can be found in Appendix 5 of the TN). The proposed signalized junction has been modelled using baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) TEMPRO growth factors to 2031 and the above TRICs vehicle trip rates in the AM and PM peak.

HCC as HA has reviewed the LinSig modelling methods used in the TN, the approach of which reflects the 2031 trip rates and proposed highway junction layout. The methods used would be the standard way of presenting and assessing a proposed signalized junction and are therefore considered acceptable in this respect. The results of the LinSig modelling for all lanes/links of the proposed signalized junction show that the Degree of Saturation (DoS) (which is defined as the ratio of flow to capacity for a lane) is acceptable (at a level of below the recommended 90% for all arms/lanes) and the Practical Reserve Capacity (PCR) (which is a measure of the degree of spare capacity / degree of overload at the arm/lane with the worst DoS) is within capacity. Furthermore the predicted mean maximum queue levels on the highway would not be deemed to have a severe impact on the nearest junctions in either direction.

#### d. Modelling - conclusion

From a highways and transport perspective, HCC as HA has assessed and reviewed the capacity and modelling results from the proposals in the context of paragraph 109, National Planning Policy Framework (NPPF) (update 2019), which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". In this context and in conjunction with a review of traffic flows using the HA's COMET model, the application and above model results have demonstrated that there would not a severe impact on the road network including when assessing the cumulative impact of baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) + TEMPRO growth factors to 2031 + the development in the AM and PM peak. Furthermore the site is an allocated employment site in TRDC's Local Plan and the A412 form part of A road network. Therefore the number of additional trips from the application site itself onto the A road would not be considered to be severe in this context.

NOTE: COMET is a multimodal transport model, developed by HCC using Department for Transport guidance. It is able to predict changes in travel demand for vehicles, buses and rail. It currently covers all A, B, main C roads and some key 'rat runs' in residential areas. The model was built to represent typical weekday conditions in the AM peak (8–9am) Inter peak (an average hour between 10am–4pm) and PM peak (5–6pm), with the current base year representing 2014 and the main forecast year corresponding to 2036.

### **5. Proposed Access and Off-site Highway Works**

The proposals include extending the existing private access road to run along the full front of the site in addition to a new footway on the western/development side of carriageway. There are three proposed vehicle entrances / exits from the private road providing access to three separate car parks fronting the two warehouses. The general layout is shown on submitted drawing no. 17019-C4P-AV-00-DR-A-0500 P16.

The proposed access arrangements including details of kerb radii, visibility splays and widths are shown on submitted plan numbers MLC-BWB-GEN-XX-DR-TR-100 S2 rev. P5 and MLC-BWB-GEN-XX-DR-TR-101 rev. P5 and described in section 5.4 of the Transport Assessment. Following assessment and review of the proposals, the access arrangements on the proposed access road and within the site are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.

Vehicle tracking / swept path analysis has been included as part of the submitted TA (drawing number MLC-BWB-GEN-XX-DR-TR-110 rev. P5). The details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site

accesses in addition to a car moving in and out of the car park only access. It is unlikely that HCC as Highway Authority would agree to adopt the new and existing industrial access roads if they were ever offered for dedication as the proposals would not demonstrate a utility to the wider public as outlined in Roads in Hertfordshire (Sec. 3, 12.3). The developer would need to put in place a permanent arrangement for long term maintenance and the road name plate would need to indicate that it is a private road.

#### a. Off-site Highway Mitigation Works

The proposed off-site highway mitigation works are shown on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 P3 and summarised in section 8.4 of the TA. The proposed works, which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway work (as indicated by the capacity issues identified in sections 7.11 to 7.14 of the TA and sections 5.1 to 5.3 of the TN). The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road to ensure that the proposals are in accordance with Hertfordshire's Local Transport Plan (LTP4) and the NPPF (paragraphs 102 and 108 to 110). A LinSig model for the proposed signalised junction has been included in the TN illustrating that the proposed highway scheme operates within capacity at 2031, the details of which are considered acceptable by HCC as HA (and detailed earlier in section 4c of this response).

The applicant would need to enter into a Section 278 Agreement with HCC as HA in relation to the design and implementation of the necessary off-site highway works. The highway design would be subject to a detailed review and road safety audits as part of the Section 278 agreement process and would include the following works:

- The signalization of the junction of Denham Way (A412) and the private access road including the associated carriageway widening, additional filter lanes and any associated works at the junction and to/from the Maple Cross roundabout;
- The provision of signalized crossings points for pedestrians and cyclists (across Denham Way and one across the mouth / entrance of the private access road) to replace the existing pedestrian signalized crossing on Denham Way;
- The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.

A Stage One Road Safety Audit for the proposed highway works would be required to be submitted as part of the initial 278 application.

Please also refer to the recommended conditions 1 and 2 and the suggested highway informative. Please refer to section 7 of this response in relation to more details of the proposed off-site highway works in the context of pedestrian and cycling accessibility and safety.

## **6. Car Parking Level and Design**

The proposals include the provision of 142 car parking spaces and 38 HGV parking spaces – split over the two proposed units, the layout of which is shown on submitted plan no. 17019-C4P-AV-00-DR-A-0500. The area directly to the north and east of the site is located in accessibility zone 3 as documented in Three Rivers District Council's (TRDC) Development Management Policies: Local Development Document, although the site itself is not within the zone 3 area and on the edge of an urban area. The levels of car parking have been based on guidance for zone type 3, which states that the car parking levels may be adjusted to 50-75% of the indicative demand-based standard.

Following consideration of the use class, location and details submitted in Section 5.5 to 5.9 of the Transport Assessment, HCC as HA would not have an objection to the overall level of parking and the layout is acceptable and in accordance with MfS. All vehicles would be able to access the site, turn around and egress to the network in forward gear. Nevertheless TRDC as the planning and parking authority would ultimately need to be satisfied with the overall level of car parking.

The TA (sec. 5.14) states that 20% of all car parking spaces would have provision for active electric vehicle charging (EVC) whilst a further 20 to 30% of spaces would have passive EVC provision. HCC as Highway Authority would be supportive of this to ensure that the development is in accordance with LTP4 and HCC'S Sustainability Strategy.

## **7. Accessibility & Sustainability**

The site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site.

The site is therefore within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north in Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. HCC as Highway Authority would however recommend that measures are explored to ensure that the existing (and new extended) footway on the private access road is kept free of car parking – this would require discussion with the land owners of the existing private access road.

The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. Nevertheless this is acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still within an acceptable level.

The proposals include the provision of 57 cycle parking spaces, which is considered acceptable at this stage. The recommended levels for cycle parking are normally based on the number of full time staff members, the details of which are not yet known for the application site at this stage of the application. HCC as Highway Authority would recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members (and should be considered as part of the necessary Travel Plan – referred to later in this section). This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site and to ensure that the development is in accordance with NPPF and LTP4.

National Cycle Route 6 is located approximately 1km from the site by bike (accessed via Denham Way, Uxbridge Road and Springwell Lane), which therefore demonstrates that the wider cycle network could be utilised as a form of travel to and from the site, particularly for any future employees.

There have been some concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross, specifically for pedestrians. The proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety have previously been requested by HCC as HA and agreed in principle as part of the pre-application discussions to take into consideration and mitigate any adverse impacts

from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective, specifically in relation to access for pedestrians and cyclists (to be in accordance with LTP4 policies: 1: Transport User Hierarchy; 5: Development Management; 7: Active Travel – Walking and 8: Active Travel – Cycling and the NPPF para. 102, 108, 110). In this context the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School) and therefore onto and from the wider highway network.

#### a. Planning Obligations – Travel Plan

TRDC has adopted the Community Infrastructure Levy (CIL) and therefore contributions towards local transport schemes as outlined in the South West Herts Growth & Transport Plan would be sought via CIL in appropriate.

A Framework TP has been submitted as part of the application and is considered to be generally acceptable at this stage of the application/ development. Nevertheless the following amendments would be required to be submitted in an amended FTP prior to occupation:

- Local Policy Context should include LTP4 strategy.
- A statement of senior commitment is required within the FTP stating that developers/businesses are committed to implementing the travel plan.
- Freight and delivery measures should be included with the TP if appropriate.
- If the employment figures are low, it is recommended to consider car park management as an oversupply of parking spaces may encourage car use.
- Staff surveys should be collected annually.
- Multi modal surveys should be carried out every other year (in years 1, 3 and 5 of travel plan monitoring).
- It should be noted in the FTP that annual monitoring reports should/ will be shared with HCC at least 3 months after completion.

Following consideration of the size and nature of the development, developer contributions of £6000 (£1,200 per annum for a five year period and index linked RPI from March 2014) are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of the FTP including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing [travelplan@hertfordshire.gov.uk](mailto:travelplan@hertfordshire.gov.uk)

The request for a financial contribution via a planning obligation under section 106 (Town and Country Planning Act 1990) for a travel plan meets the 3 tests as outlined in regulation 122(2) of The Community Infrastructure Levy Regulations 2010 as follows:

- a) it is necessary to make the development acceptable in planning terms because travel plans are a necessary tool in ensuring that sustainable travel modes are encouraged, promoted and regulated to be in accordance with the NPPF and LTP4. NPPF states that “all developments that will generate significant amounts of movement should be required to provide a Travel Plan”. The securing of a travel plan via a planning obligation allows for a greater level of detail to be agreed than could reasonably be achieved by a planning condition particularly in relation to the implementation and monitoring of the plan.
- b) it is directly related to the development because the travel plan would provide a long-term management strategy for the site and its proposed use as an employment site. The travel plan would support the need to secure specific objectives, targets and commitments (including details of survey methods, funding and any required third party engagement) and be required to address the transport impacts generated by: employees commuting to and from the site; visitor movements and freight/delivery movements.
- c) it is fairly and reasonably related in scale and kind to the development because the development proposals meet the thresholds for requiring a full travel plan and its associated



level of financial contribution as laid out in Hertfordshire County Council's Travel Plan Guidance (TPG, 2020), which is a supporting document to LTP4. A planning obligation is "the only mechanism to secure Travel Plan Evaluation and Support Contributions, that allow for the Travel Plan to be supported by the County Council for a minimum period of 5 years" TPG, 2020.

The monitoring and enforcement of travel plans is not a statutory function of HCC and therefore it is justified to request a reasonable level of contribution to support this. Section 93 of the Local Government Act 2003 gives the power to local authorities to charge for discretionary services. These are services that an authority has the power for, but not the duty to, provide.

## **8. Construction Logistics Management Plan**

The general details submitted in the plan are considered to be acceptable by HCC as HA. Nevertheless the applicant would be required to submit a full Construction Management Plan with more specific information (as detailed in the enclosed recommended condition). The details would need to be approved in writing by the planning and highway authority prior to the commencement of any works on site.

## **9. Conclusion**

In the context of the NPPF and LTP4 and following assessment of the submitted TA and TN as detailed in the above points, there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective by HCC as HA. Nevertheless the acceptability of the proposals would be subject to the full technical approval and completion of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informatives.

### 4.2.2 Highways England: [No objection subject to conditions]

Referring to the notification of a planning application dated 10th March 2021 referenced above, in the vicinity of the M25 that forms part of the Strategic Road Network, notice is hereby given that Highways England's formal recommendation is that we:

~~a) offer no objection;~~

b) recommend that conditions should be attached to any planning permission that may be granted (see Annex A – Highways England recommended Planning Conditions);

~~c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);~~

~~d) recommend that the application be refused (see Annex A – Reasons for recommending Refusal).~~

Highways Act Section 175B is not relevant to this application.<sup>1</sup>

This represents Highways England's formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should you disagree with this recommendation you should consult the Secretary of State for Transport, as per the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via [transportplanning@dft.gov.uk](mailto:transportplanning@dft.gov.uk).

## **Annex A Highways England recommended Planning Conditions**

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. This response represents our formal recommendations with regard to 21/0573/FUL and has been prepared by the Area 5 Spatial Planning Team.

1. No development shall take place until a detailed Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. This document should include details such as working hours, the number of vehicles expected on a daily basis, the expected frequency of vehicles during construction, the size and weight of these vehicles and the proposed routing of these vehicles on the local road and SRN. If the detailed Construction Management Plan demonstrates that there is the potential for a severe impact on the SRN, further assessments may be required.

Reason: To mitigate any adverse impact from the development on the M25. To ensure that the M25 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

4.2.3 Environment Agency: [No objection subject to conditions]

4.2.3.1 Initial comment 08.04.2021: [Objection – insufficient information]

Thank you for consulting us on the above application on 10 March 2021.

As part of this consultation we have reviewed the following document:

Maple Cross Contaminated Land Assessment and DQRA, prepared by H Fraser

**Objection: Insufficient information to determine risks to groundwater**

Based on the information submitted to date, we object to this application and recommend planning permission is refused.

The applicant has failed to provide assurance that the risks of pollution to controlled waters are acceptable, or can be appropriately managed.

**Reasons**

The proposed development presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction

As the planning application is not supported by an appropriate full risk assessment, it does not meet the requirements set out in paragraphs 170 and 178 of the National Planning Policy Framework and Policy DM8 of the Three Rivers Local Plan: Development Management Policies (2013).

In addition, the Thames river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. The proposal could cause deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

### **Overcoming our objection**

We note that the submitted Contaminated Land Assessment and DQRA, dated 2 March 2021, is a summary version.

In order to fully assess the risks to controlled waters we require the full version of this report.

The applicant should provide the full version of the Maple Cross Contaminated Land Assessment and DQRA report. This should also include all modelling input files used in the controlled waters risk assessment detailed in Section 7 of this report.

### **Informative**

#### **Flood Risk Activity Permit**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk). The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### **Advice to LPA**

#### **Water Resources**

Increased water efficiency for all new developments potentially enables more growth with the same water resources. Developers can highlight positive corporate social responsibility messages and the use of technology to help sell their homes. For the homeowner lower water usage also reduces water and energy bills.

We endorse the use of water efficiency measures especially in new developments. Use of technology that ensures efficient use of natural resources could support the environmental benefits of future proposals and could help attract investment to the area. Therefore, water efficient technology, fixtures and fittings should be considered as part of new developments.

We recommend that all new non-residential development of 1000sqm gross floor area or more should meet the BREEAM 'excellent' standards for water consumption.

We also recommend you contact your local planning authority for more information.

### **Final comments**

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference

number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations.

#### 4.2.3.2 Further comments 12.05.2021: [Objection]

Thank you for the additional information and I apologise for the delay in responding.

We have now reviewed the groundwater DQRA and Contaminated Land report but due to the absence of the Maple Lodge Nature Reserve as a receptor we are currently unable to remove this objection.

Upon further review we also wish to object due to the risk to a priority habitat which we have a role in protecting, in this case maple Lodge. I apologise for us having not stated this in our earlier response. This is outlined in more detail below.

#### **Objection 1**

Having reviewed the additional information we wish to maintain our objection on insufficient information to determine risks to groundwater, as the planning application fails to identify the Maple Lodge Nature Reserve, a Groundwater Dependent Terrestrial Ecosystem (GWDTE), as a groundwater receptor.

#### **Reason**

The proposed development presents a high risk of contamination could be mobilised during construction to pollute controlled waters. Controlled waters have particular sensitivity in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction
- Located within a Water Framework Directive groundwater body with 'poor' classification (Mid-Chilterns Chalk)

As the conceptual site model presented in the Maple Cross Contaminated Land Assessment and DQRA has failed to identify and consider risks to the Maple Lodge Nature Reserve receptor, the planning application does not meet the requirements set out in paragraphs 170 and 178 of the National Planning Policy Framework and Policy DM8 of the Three Rivers Local Plan.

Furthermore the Thames River Basin Management Plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. The proposal could cause deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

#### **Overcoming our objection**

It may be possible to overcome our objection by undertaking further risk assessment to ensure there will be no adverse impact to the Maple Lodge Nature Reserve GWDTE as a result of the proposed development. This should include:

- An updated conceptual site model which identifies the Maple Lodge Nature Reserve as a groundwater receptor and assesses all potential risks to the receptor arising from the proposed development.

- An assessment of site-specific contaminants against Freshwater Environmental Quality Standards (EQS) to ensure compliance with these criteria and provide confidence that there is no unacceptable risk to the Maple Lodge Nature Reserve as a result of the proposed development.

## **Objection 2**

We object to the piling activity proposed as part of this planning application due to its likely effect on the wet woodland and reedbed priority habitat present at Maple Lodge Nature Reserve. This habitat is listed as being of 'principal' importance under s41 of the Natural Environment and Rural Communities (NERC) Act 2006. Insufficient information has been provided to assess the risks posed by this activity and no details of mitigation or compensation measures have been submitted to address any identified risks. We therefore recommend that planning permission is refused.

## **Reasons**

England's Biodiversity strategy identifies those priority habitats which are also listed as being of 'principal' importance under section 41 of the NERC Act 2006. This Act states that local planning authorities must consider these habitats in their decision-making, because of their duty to conserve Biodiversity (section 40)

In this instance, the proposed development may have a detrimental effect on the priority habitat that we have a role in protecting. The application does not include adequate information about the measures proposed to assess and address the risk to ensure protection of the Maple Lodge Nature Reserve and its associated S41 habitats in this location. In particular the application fails to identify any risks posed to the water quality or quantity of groundwater that is essential to sustain the aquifer fed naturally fluctuating waterbodies (ponds and lakes), reedbed and wet woodland habitats within Maple Lodge Nature Reserve.

This objection is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged.

## **Overcoming our objection**

It may be possible to overcome our objection by submitting:

- A detailed risk assessment of both the short and long term risks to Maple Lodge Nature Reserve, considering both groundwater flows (water quantity) and the potential effect of turbidity (water quality) to these habitats of principal importance, as a result of the development.
- detailed drawings of the location and construction of the proposed development (including timing of works, methods and materials to be used)
- details of how the Maple Lodge Nature Reserve is to be protected during construction works
- Where impacts are identified, details of mitigation or compensation for any loss of habitat

The design, construction, mitigation and compensation measures should be based on a survey which is carried out at an appropriate time of year by a suitably experienced surveyor using recognised survey methodology.

## **Final comments**

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records. This would be greatly appreciated.

If you are minded to approve the application contrary to our objection, I would be grateful if you could re-notify us to explain why, and to give us the opportunity to make further representations.

#### 4.2.3.3 Further comments 12.05.2021: [No objection subject to conditions]

The applicant has proposed additional assessment to evaluate the risks that the development poses to the Maple Lodge Nature Reserve Groundwater Dependent Terrestrial Ecosystem via the following documents;

- Email correspondence (Tier Ref: T1999/PJB/EJJ dated 19th May 2021).
- Hydrogeological Impact Assessment & GQRA of Maple Lodge nature reserve (Ref 30422R3 dated 07/06/2021)

As such we are now able to withdraw our objection, and recommend that the following conditions are attached to any grant of planning permission. Without these conditions we feel that the development would pose an unacceptable risk to groundwater and we would object.

#### **Condition 1**

No development shall take place until a scheme for the provision and management of compensatory habitat creation has been submitted to, and agreed in writing by, the local planning authority and implemented as approved. Thereafter, the development shall be implemented in accordance with the approved scheme.

Reasons: Development that encroaches on the the marshy grassland (B5) habitat associated with the Maple Lodge Farm Ditch (main river) may severely affect its ecological value. The National Planning Policy Framework (paragraph 175) states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

#### **Advice**

The scheme as it is currently submitted would result in the net loss of marshy grassland and has the potential to fragment the landscape for species that use this habitat. The ecology report identifies standing water amongst the scattered trees at the eastern and southern boundaries of the site; wet woodland is a habitat of principle importance as identified by S41, NERC (2006). Development must not result in fragmentation or isolation of wildlife habitats and should seek opportunities for habitat connectivity within the wider landscape.

The applicant should use the latest DEFRA Biodiversity Net Gain Metric to assess the value of current habitats on site and appropriately design the scheme. The metric should be used to assess all habitats on site, including the Maple Lodge Farm Ditch and the adjoining marshy grassland. A management plan for these habitats should be included with the designs. A minimum 8m buffer zone and any newly created habitat should be managed to develop a natural character, with planting options that may include native trees and shrubs, but planned as such to not cause shading issues or bank instability over time. Grass areas should be left unmown or mown later in the season to enhance their floristic and habitat value. Fencing and structures should be kept minimal and set back beyond the buffer zone.

Fostering the development of a continuous and structurally diverse buffer zone along the watercourse will ensure this 'wildlife corridor' provides a wider and therefore more robust and sustainable range of linked habitats.

This condition will ensure the protection of wildlife and supporting habitat and secure opportunities for enhancing the site's nature conservation value in line with national planning policy. The NPPF (2018) now identifies that developments should be achieving net gain, in line with the 25 Year Environment Plan. A biodiversity net gain assessment will ensure the loss of habitat at this site is compensated for and provide connectivity within a fragmented landscape whilst complying with these policies.

### **Condition 2 – Groundwater Levels**

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 170 of the National Planning Policy Framework.

### **Condition 3 – Land Affected By Contamination**

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

1. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: The proposed development presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is:

- Located within a Source Protection Zone 1
- Located atop a Secondary Aquifer (River Terrace Deposits) in hydraulic continuity with the underlying Principal Aquifer (Chalk)
- Located in close proximity (within 500m) to an Affinity Water potable groundwater abstraction
- Located within a Water Framework Directive groundwater body with 'poor' classification (Mid-Chilterns Chalk)

This condition will ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

#### **Condition 4 – Verification Report**

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

#### **Condition 5 - Long Term Monitoring and Maintenance Plan for Groundwater**

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

#### **Condition 6 – Unidentified Contamination**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: No investigation can completely characterise a site. This condition ensures that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

#### **Condition 7 – Borehole Management**

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning



authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reasons: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 170 of the National Planning Policy Framework and Position Statement N Groundwater resources of 'The Environment Agency's approach to groundwater protection'. Link to archived EA guidance: [https://webarchive.nationalarchives.gov.uk/20140328154120/http://cdn.environment-agency.gov.uk/LIT\\_6478\\_8cbe6f.pdf](https://webarchive.nationalarchives.gov.uk/20140328154120/http://cdn.environment-agency.gov.uk/LIT_6478_8cbe6f.pdf)

To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

### **Condition 8 – Piling / Foundation Works Risk Assessment with Respect to Groundwater Resources**

Piling, deep foundations and other intrusive groundworks using penetrative measures shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that any proposed piling, deep foundations and other intrusive groundworks do not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement N. Groundwater Resources of the 'The Environment Agency's approach to groundwater protection'.

To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

### **Condition 9 – Infiltration of Surface Water onto the Ground**

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body.

### **Advice**

#### **Additional risk assessment**

The applicant has proposed the following further works in relation to the Maple Lodge Nature Reserve:

*1. A controlled waters risk assessment conducted with the nature reserve identified as a groundwater receptor of potential contamination arising from the site, and a risk assessment undertaken to determine if there is a significant risk of pollution arising from the development To comprise a description of potential contamination sources, a description of the receptor, identification of pathways between them, and a description of whether the development will have any impact on potential contaminant transport from the site to the receptor.*

*2. A semi-quantitative assessment of long and short term impacts to water quantity and quality drawing on the detailed and robust site investigation, monitoring information,*

*conceptualisation and Detailed Quantitative Risk Assessment works already carried out to date and submitted. To include semi-quantitative assessment of groundwater and surface water flows between the site and the nature reserve, and an assessment of potential impacts arising from turbidity.*

*3. Detailed drawings of the location and the construction of the proposed development to be provided alongside a Piling Method Statement and Risk Assessment which includes details of timing of works, methods and materials to be adopted.*

We would expect the outcomes of proposals 1 & 2 to be included in any future consultation on our Condition 3 (Land affected by Contamination) and the outcome of proposal 3 to be included in any future consultation on our Condition 8 (Piling / Foundation Works Risk Assessment with Respect to Groundwater Resources).

### **Advice**

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination: Risk Management (formerly CLR11), when dealing with land affected by contamination.
- Refer to the Environment Agency Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed. The Planning Practice Guidance defines a "Competent Person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation." (<http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary>)
- Refer to the contaminated land pages on GOV.UK for more information.

We expect the site investigations to be carried out in accordance with best practice guidance for site investigations on land affected by land contamination. E.g. British Standards when investigating potentially contaminated sites and groundwater, and reference with these documents:

- BS5930:2015 Code of practice for site investigations;
- BS 10175:2011 A1:2013 Code of practice for investigation of potentially contaminated sites;
- BS ISO 5667-22:2010 Water quality. Sampling. Guidance on the design and installation of groundwater monitoring points;
- BS ISO 5667-11:2009 Water quality. Sampling. Guidance on sampling of groundwaters (A minimum of 3 groundwater monitoring boreholes are required to establish the groundwater levels, flow patterns but more may be required to establish the conceptual site model and groundwater quality. See RTM 2006 and MNA guidance for further details).
- BS ISO 18512:2007 Soil Quality. Guidance on long-term and short-term storage of soil samples
- BS EN ISO 5667:3- 2018. Water quality. Sampling. Preservation and handling of water samples
- Use MCERTS accredited methods for testing contaminated soils at the site.
- Guidance on the design and installation of groundwater quality monitoring points Environment Agency 2006 Science Report SC020093 NB. The screen should be located such that at least part of the screen remains within the saturated zone during the period of monitoring, given the likely annual fluctuation in the water table. In layered aquifer systems, the response zone should be of an appropriate length to prevent connection between different aquifer layers within the system.

A Detailed Quantitative Risk Assessment (DQRA) for controlled waters using the results of the site investigations with consideration of the hydrogeology of the site and the degree of any existing groundwater and surface water pollution should be carried out.

The following should be considered:

- Use MCERTS accredited methods for testing contaminated soils at the site
- The DQRA report should be prepared by a “Competent person” (e.g. a suitably qualified hydrogeologist). The DQRA should be based on site-specific data, however in the absence of any applicable on-site data, a range of values should be used to calculate the sensitivity of the input parameter on the outcome of the risk assessment.
- Where groundwater has been impacted by contamination on site, the default compliance point for both Principal and Secondary aquifers is 50m. Further guidance is available at <https://www.gov.uk/guidance/land-contaminationgroundwater-compliance-points-quantitative-risk-assessments>

Following the DQRA, a Remediation Options Appraisal to determine the Remediation Strategy in accordance with the Land Contamination: Risk Management guidance.

Any remediation strategy must be carried out by a competent person, in line with paragraph 178 of the National Planning Policy Framework. The National Planning Policy Framework defines a “Competent Person (to prepare site investigation): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation”.

Where SUDs are proposed - Infiltration SUDs should not be located in unsuitable and unstable ground conditions such as land affected by contamination or solution features. Where infiltration SuDS are to be used for surface run-off from roads, car parking and public or amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater. For the immediate drainage catchment areas used for handling and storage of chemicals and fuel, handling and storage of waste and lorry, bus and coach parking or turning areas, infiltration SuDS are not permitted without an environmental permit. Further advice is available in the updated CIRIA SUDs manual [http://www.ciria.org/Resources/Free\\_publications/SuDS\\_manual\\_C753.aspx](http://www.ciria.org/Resources/Free_publications/SuDS_manual_C753.aspx)

### **Waste off-site**

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the waste management page on GOV.uk for more information.

### **Material Re-use on-site**

The CL:AIRE Definition of Waste: Development Industry Code of Practice (Version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site provided they are treated to a standard such that they fit for purpose and unlikely to cause pollution
  - treated materials can be transferred between sites as part of a hub and cluster project
  - some naturally occurring clean material can be transferred directly between sites
- Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt the Environment Agency should be contacted for advice at an early stage to avoid any delays. We recommend that developers should refer to:
- The position statement on the Definition of Waste: Development Industry Code of Practice
  - The waste management page on GOV.uk

## **Informative**

### **Flood Risk Activity Permit**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk). The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### **Final comments**

Thank you for contacting us regarding the above application. Our comments are based on our available records and the information submitted to us. Please quote our reference number in any future correspondence. Please provide us with a copy of the decision notice for our records.

#### **4.2.4 HCC Lead Local Flood Authority: [No objection subject to conditions]**

Thank you for consulting us on the above application for Comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works at Development Site, Maple Lodge, Maple Lodge Close.

It is acknowledged that as LLFA we previously provided comments on application reference 19/1179/FUL and the associated appeal. It is acknowledged that the LLFA provided detailed responses to application reference 19/1179/FUL, on submission of additional information for the appeal the applicant subsequently overcame the LLFAs objections, and the LLFA recommended drainage conditions at the appeal, for the applicant to clarify any outstanding technical matters by way of condition.

The applicant has provided the following information in support of the application:

- A Flood Risk Assessment and Drainage Strategy for Maple Cross, Rickmansworth, Ref. T/17/1999/FRA, dated 25 February 2021, Issue 1.6, prepared by Tier Consult.
- MicroDrainage Calculations, dated 25/02/2021, prepared by Tier Consult.

- General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T\_17\_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult.

The drainage strategy is based on permeable paving, geocellular attenuation and restricted discharge to the QBAR greenfield runoff rate of 6.5l/s, with a pumped discharge into Maple Lodge Ditch, which is a Main River.

As this is a greenfield site, the new development should be minimising underground storage. The proposal for geo-cellular tanks on a greenfield site is justified by the evidence on the presence of groundwater on site and ensuring that sufficient storage is able to be provided to restrict to the QBAR rate. The applicant will need to fully line SuDS features on site to mitigate against potential groundwater ingress and ensure engineering design against any possible lifting.

With regards to management and treatment of surface water, it is noted how petrol interceptors are proposed. Mechanical methods of treatment require rigorous maintenance regimes, and it is preferred that more on surface solutions are provided. We are pleased to see the use of permeable paving for the parking areas. It is acknowledged that due to the use of HGVs on site, mechanical methods of treatment are likely to be needed. It is recommended to be clarified by way of condition, that the applicant investigates additional provision of above ground management and treatment of surface water. Within the detailed design the applicant will need to explore more appropriate management and treatment of surface water such as the exploration of inclusion of above ground SuDS features such as filter strips e.g. in the north of the site for the linear drainage channel, as well as other locations including exploration of minimising the use of road gullies and if more appropriate on surface SuDS features could be provided.

With regards to the half drain down times of the drainage system, the applicant has detailed within the FRA itself how half drain down times during the 1 in 100 year + climate change event is 11 minutes. However, from a review of the MicroDrainage calculations, it is stated how Half Drain Time has not been calculated as the structure is too full. However, some specific half drain times are provided within the results for the nodes themselves. If half drain down times are unable to be achieved within 24 hours, the applicant will need to ensure that there is adequate storage on site to cater for a 1 in 30-year storm immediately following a 1 in 100 year + climate change event. We would recommend that this is clarified by way of condition.

As riparian owner, the applicant will need to ensure that the Maple Lodge Ditch is in a suitable condition and will need to undertake appropriate maintenance.

The applicant will need to liaise with the Environment Agency regarding any permits required for connection to the main river.

We have reviewed the information submitted in support of this application. In order to secure the final detail of the drainage scheme, and in light of the site-specific concerns previously highlighted on application reference 19/1179/FUL through our consultation responses, we would therefore recommend the following conditions should planning permission be granted:

#### Condition 1

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T\_17\_1999, Drawing No. 55-01, Rev. P17, dated

25.02.2021, prepared by Tier Consult. The scheme shall include the following mitigation measures:

1. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.  
[www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk) 3
2. Restrict surface water discharge into Maplodge Ditch (via pump) to the QBAR Greenfield run-off rate (6.5l/s).
3. Implement drainage strategy based on lined permeable paving, lined cellular attenuation and discharge via surface water pump into the nearest watercourse, Maplodge Ditch, which is Main River.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

### Condition 2

No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T\_17\_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall also include:

1. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs.
2. All corresponding detailed calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Details of half drain down times of the surface water attenuation.
4. Clarification on the volumes of water to be stored within each SuDS attenuation feature / permeable paving sub-base etc.
5. Detailed engineering drawings, calculations and evidence to secure and safeguard the SuDS features from groundwater.
6. Detailed engineering drawings and evidence of the proposed surface water pump including details of safeguarding and a management and maintenance plan.
7. Detailed management and maintenance plan for the Maplodge Ditch Main River and a timetable for implementing maintenance and the removal of any necessary blockages.
8. Exploration of above ground SuDS, to include the provision of filter strips / filter trenches to support effective and sustainable management and treatment of surface water.
9. Silt traps for the protection of any tanked elements.
10. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving etc. and reducing the requirement for any underground storage. To include details of products and maintenance.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

### Condition 3

Upon completion of the drainage works for the site and in accordance with the timing / phasing arrangement, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.

3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Informative to the LPA

We recommend the LPA obtains a maintenance plan that explains and follows the manufacturer's recommendations for maintenance or follows the guidelines explained in the SuDS Manual by Ciria. A maintenance plan should also include an inspection timetable with long term action plans to be carried out to ensure effective operation and to prevent failure. For further guidance on the maintenance of SuDS components, please refer to the SuDS Manual by Ciria.

#### 4.2.5 Herts Ecology: [Advisory comments]

##### 4.2.5.1 Initial comments 13.04.2021: [Advisory comments]

1. I responded previously to a similar application. Based on the supporting information presented within the ecological report by Greengage which also referenced previous surveys (not provided), the lack of any conservation designation for the site, and on previous data available from HERC, I concluded that the value of the grasslands on site, although assessed in the ecological report as being of little value, was at least in-part semi-natural with a moderate diversity of species including a number associated with marshy areas. However, I did not consider that the information available to me at the time was sufficient to justify a refusal on the grounds of ecology.

2.1 However, new information was presented at the subsequent Appeal Hearing from the local conservation group in the form of a description of a walk-over survey of the site and supporting photographs. This raised the possibility of the site having a greater botanical value than found in the surveys conducted by Greengage or in their interpretation of the previous surveys referenced in their report.

2.2 A new ecological report by Greengage has been submitted with this current application. The walk-over survey was carried out in November, a sub optimal time for botanical surveys making the botanical assessment made at the time of limited value. It therefore does not wholly satisfy the PEA standards as claimed (3.1). However, a similar conclusion was found to that previously drawn in respect of the quality of the grassland, namely that it did not meet Priority Habitat status. Whilst this view may also have been based upon previous survey results, given the poor survey time this survey does not provide any meaningful update or contribution to assessing the site, and a recommendation was made to undertake an updated botanical (NVC) survey of the site to confirm the position.

2.3 The new information provided at the Hearing has not, to my knowledge, been submitted to the LPA to inform any objection to this application. However, given the recommendation in the ecology report, I advise it would be helpful to undertake a further NVC survey in order to assess the current value of the grassland. This should be conducted within the optimum survey season. If this new survey and assessment indicates that the ecological loss to the site is greater than previously considered, it is not unreasonable that this should generate greater offsetting compensation.

2.4 Use of the current version of the NE Biodiversity Metric would enable this to be fully measurable, as recognised by the Inspector. Since our original comments, use of the updated Biodiversity Metric – published in July 2019 - has become more frequent where major development is proposed. Its use as part of the mandatory BNG proposal is needed to enable measured assessments of net gain to be determined, as outlined in the January

2020 Environment Bill. Nevertheless, whilst the expectations of the government have now become clearer, the Bill has not yet been enacted and the use of the metric or Biodiversity Net Gain is still not currently a mandatory requirement of planning law, also recognised by the Inspector at the Hearing.

2.5 Should the LPA wish a decision on this application to be further informed by the proposed survey and re-assessment of the grassland, then the application should not be determined until the surveys have been completed and the results and assessment provided for the LPA's consideration. If measurable net gain is to be achieved in the context of this new application, this will need to be informed by the use of a metric. However, if the LPA is minded to determine the application without this additional information, then in order to fully inform any changes to compensation requirements, I advise the survey should then be secured by condition and any modifications to the currently proposed compensation made accordingly.

3. In terms of other matters relating to protected species I am not aware of any new information that would alter the assessment that they can be suitably safeguarded by following the mitigation measures recommended in the latest Greengage report.

4.1 In respect of indirect impacts, the Maple Lodge Nature Reserve to the south is important as a wetland reserve and any significant impact on water supply into the reserve by the development would negatively impact on its ecology. It is clearly already vulnerable, with naturally shallow waterbodies and recent periods of low water if not drying out. This supply is likely to be influenced to a degree by surface water runoff (largely addressed by the amended drainage scheme into the adjacent stream to the west) but more importantly is considered to be dependant mainly on groundwater flow, as raised before and during the Hearing. Concerns relating to the impact of piling were included amongst the reasons for refusal of the previous application (Reason 4) and such concerns do need to be addressed.

4.2 At Appeal the Inspector considered concerns relating to dewatering and contamination of the water supply (paragraphs 88 and 89) and also concluded that *the appeal scheme would be unlikely to have a significant effect on water levels at the lakes, other than over a short period of time when the interceptor and attenuation tank are installed. The measures suggested by the appellant would ensure that even during this limited period there should not be a significant effect on the lakes as a consequence of the proposal* (paragraph 88).

4.3 The application site will still receive the same amount of surface water and groundwater as it always did – notwithstanding vagaries of climate change or other groundwater impacts further afield. However, it is the long-term behaviour of the groundwater through and around the site in respect of the proposals which should be sufficiently understood, to demonstrate that the groundwater flow reaching the reserve is not reduced or otherwise unacceptably affected by the proposals. This is a hydrological matter for which I am not qualified to comment authoritatively but has been considered in the Maple Cross Contaminated Land Assessment and DQRA – Summary report dated 02/03/2021. Consequently, the LPA needs to be satisfied that its conclusions and those reached by the Inspector adequately address these concerns and are not limited to the short-term impacts of dewatering and tank installation.

#### 4.2.5.2 Further comments 26.07.2021: [Advisory comments]

1. Further to our comments on the above, we have received a further species list (as requested) from the Consultant Ecologists Greengage. This was based upon an NVC survey in June of this year undertaken by Greengage which provided a rather superficial NVC description of the site with no supporting information such as any quadrat species data which would also reflect frequency of occurrence. When asked whether there were *any species lists to support the NVC suggestions*, we were sent a single list of species recorded from the site. Whilst this does provide an update to the understanding of the site during the



optimum survey period, as an evidence-base needed to generate an NVC description it is remarkably limited. However, this data may yet exist, whilst Greengage may have considerable experience in making accurate NVC assessments from what appears to be a simple list of species. It was therefore considered that the NVC should be taken on its own merits, as provided to Herts Ecology. They are attached to this letter.

2. However, Herts Ecology had also taken the opportunity to visit the site to inform our own independent assessment of the existing grassland. The results of this are also attached to this letter and have been sent to Greengage. This has enabled HE to update its own understanding of the site, upon which to advise TRDC accordingly.

3. In very broad terms, the surveys have similar results. The single most acidic area was very localised and limited in extent; much of the remaining grassland was characterised by greater or lesser abundance of false oat grass, where in places a more species-rich community was present. It would appear to be largely natural grassland on natural soils, other than the north-east section which has previously been dumped on and disturbed. This did not support any established grassland at the time of the survey. The hydrology influences the presence of a moderately sized damp area now mainly dominated by a single sedge species but otherwise also species-poor. In summary the site is a mosaic of grassland communities, frequently rather coarse and species poor but with scattered better patches with very locally abundant indicator species, reflecting underlying differences in hydrology, soil depth and superficial gravel deposits.

4. Whilst the HE survey does not purport to be an NVC survey, it is capable of being used to assess the site against Local Wildlife Site criteria and the likely UK Habitats Classification. Clearly the threshold for LWS indicator species is reached for both neutral and mixed grasslands, requiring 8 and 12 species respectively. However, a large proportion are only rare to occasional and it is therefore considered the site would be of borderline quality. That said, better management would undoubtedly improve the botanical composition. Consequently, the site does support a large grassland of at least moderate intrinsic interest, with clear potential for LWS status. However, we do not consider that the abundance of many indicator species and general coarse grass character, meets the status expected of a Priority Grassland habitat. This is also consistent with the view taken over 20 years ago, when LWS criteria had not been established.

5. At the Inquiry in 2020, it was accepted that Biodiversity Net Gain proposals had been made and were acceptable to the LPA. These were not based upon use of the Biodiversity Metric as BNG was (and remains) not a requirement of planning, and no updated DEFRA metric had been published at the time of the original comments on this application. Since then, in July 2019 and July 2021, Natural England have updated the Biodiversity Metric twice and now Version 3 is available. It was recognised by the Inspector - a year later - that use of such a metric would have provided a quantitative assessment of the site and its impacts. At the Inquiry this was also acknowledged by Herts Ecology, given the published Metric V2 update and the weight clearly given to its use and BNG by Govt in the Environment Bill. If providing comments again in 2020, HE stated they would advise using the NE metric to assess BNG impacts and requirements. However, the Inspector did not request this was undertaken to inform the appeal decision.

6. Provision of a Biodiversity Metric is not a requirement of planning law; NE state this will not become law until autumn 2023 when the TCPA is amended. However, we consider that for a site of this size, nature and impacts, it is now reasonable for the LPA to consider assessing the current application proposals using a Biodiversity Metric, consistent with the comments made at the Inquiry.

7. Consequently, HE have completed the Biodiversity Metric V2 to provide a view on this. In terms of quality we have considered that two thirds of the grassland (the most disturbed and species-poor sections) should be scored as 'Modified grassland' to reflect their lower

and disturbed quality, but around one third and the sedge bed as 'Other neutral grassland' to reflect the higher quality areas and more distinctive habitats. The results of this metric are attached.

8. Based on the above and the existing habitat map, the attached NE V2 metric shows the following:

- The existing site scores 20.40 Biodiversity Units (BU)
- The BU lost due to development = 16.98 BU
- Retained onsite BU = 3.42
- The proposed landscape plan shows BU gained on site = 7.12 BU
- This leaves an on-site score of 10.54 BU.
- This results in a net loss of 9.86 BU, or a net loss of 48.35%.

9. To achieve a measurable net gain in biodiversity of at least 10% as stated in the Environment Bill, this will require achieving a net total of 22.44BU, which would need an offsite contribution of 11.90 BU. At £12,000 per BU (the average DEFRA consultation figure HE have advised LPAs apply in Herts) this would amount to a cost of £142.8k.

10. This represent a significant increase in BNG monies compared to the previously agreed sum, based not on a metric but a potential conservation project to restore an adjacent LWS. This option is no longer available. However, whilst there is still no legal requirement to complete a metric, it is not possible to measure net gain objectively as proposed by Govt. without using one; the existing site value, impacts and gains are now only measurable and calculated by the scores generated by use of a metric. Consequently, the LPA will need to consider how to determine what sum may now be appropriate in the circumstances given the position reached at the Inquiry, as against the determination of a new application to which a metric has been applied. The applicant will be expected to have a view on this, as well as a view on the way the metric has been completed, but I am satisfied it represent a reasonable approach to assessing the existing value of the site and BNG requirements based upon the information now available.

11. In addition to BNG, we have been informed that a rare Forester moth, not recorded in Hertfordshire since 1947 and now considered to be extinct, has been recorded from the site. Photographic evidence has been provided and it has been confirmed by the County Moth Recorder, who states it is unlikely to have migrated to there. However, there is no evidence of breeding, although the foodplant – Common and Sheep's sorrel – are frequent / one patch respectively within the site. It used to occur in the west of the county on clay soils, although there is no suggestion it is limited to river valleys. Habitats used as described by Butterfly Conservation include damp neutral grassland (as here) to chalk downland, heathland, sand dunes and woodland clearings – i.e. a very wide range. Common sorrel - an indicator of old grassland where it survives moderate change - is relatively common throughout most of Hertfordshire.

12. However, the Forester is also listed in Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006, which identifies it as a Species of Principle Importance in England for the purpose of conserving biodiversity. It therefore needs to be taken into consideration by the LPA when performing any of its functions, in order to fulfil its Biodiversity Duty under S40 of that Act to 'have regard' to the conservation of biodiversity in England.

13. The presence of this moth now means that:

*Local Planning Authorities will use it [the S41 list] to identify the species and habitats that require specific consideration in dealing with planning and development control, recognising that under PPS [now NPPF] the aim of planning decisions should be to avoid harm to all*

*biodiversity* [NB NPPF states minimising impacts on and providing net gains for biodiversity]. (Ref DEFRA explanatory note on S41.)

Paragraph 180 NPPF states: *When determining planning applications, local planning authorities should apply the following principles:*

*a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

14. The Forester moth was also a UK Biodiversity Action Plan Priority Species, added to the UK BAP list in 2007, when it was reported as declining, but it was not subject to any Species Action Plan.

15. However, in determining this application, the LPA must now be satisfied that this species can be adequately dealt with. This will require a specific proposal to be provided by the applicant prior to determination, sufficient to demonstrate how this species and its assumed breeding habitat can be reasonably and effectively compensated. Currently no such proposals exist due to the recent record, but this does not affect the LPA's duty under S40 to ensure it is adequately considered. If this is not provided to the satisfaction of the LPA, it cannot adequately discharge its duty under the NERC Act, and the application should be refused on the basis of insufficient information on ecology.

16. Consequently, the current situation ecologically which the LPA needs to address relates to the extent to which determination of this new application needs to consider any greater weight and mechanism now expected of BNG, and its duty under NERC in respect of the S41 species.

17. We suggest that in any event the compensation for loss of the habitat should be increased, which will also contribute to the need to address the S41 moth species now known to be present within the site. Opportunities for this should be found locally if possible, to secure any population of the moth with its foodplants and sufficient habitat resource to maintain a viable population.

18. The LPA must now be satisfied that these issues can be satisfactorily addressed to enable an approval of this application, consistent with NPPF and TRDC Policy.

#### 4.2.5.3 Further comments 14.09.2021: [Advisory comments]

1. Further to our previous comments on the above, we have received a proposal from Greengage regarding the potential for additional compensation in respect of the Forester moth. An ecological review for such an approach was provided although we have also considered this in respect of the merits of this approach ecologically and in planning terms. We have also taken the opportunity to review the approach to BNG at this site in the context of the moth and the previous advice provided. This is discussed below.

### **2. Biodiversity Net Gain considerations at Maple Lodge.**

#### **2.1 Background to Biodiversity Net Gain (BNG) calculation, July 2019**

BNG was originally considered at Maple Cross on the basis of compensating and enhancing for what was considered to be a low value, relatively species-poor grassland, most of which will be lost to development. The site was a long-standing site allocation for which no new information had been provided until the application. At that time, time BNG remained an objective of Government Policy but was not – and currently is not - a legal planning requirement. Gov't's Biodiversity Metric V2 (Natural England July 2019 [DEFRA V1 2012]),

The Environment Bill (Oct 2019) or the Queen's Speech (19th Dec 2019) had not been published, all of which confirmed the Govt's expectations regarding BNG.

However, BNG had been promoted in Local Plans and planning applications where it was considered appropriate. At Maple Lodge compensation and enhancement offsite was potentially achievable on a Local Wildlife Site known to be adjacent to the development site. This had originally been identified on the basis of its neutral and marshy grassland interest, but since degraded following cessation in horse grazing. The site was now heavily invaded by scrub which was developing into woodland. To achieve a level of BNG locally, the aim would have been to restore this original habitat, thereby conserving a locally valuable flood-plain grassland adjacent to the river Colne. The basis for determining what contribution might be needed to achieve this is outlined as follows:

## **2.2 Cost calculation basis**

1. Management costs for the grassland were sourced from the higher level stewardship Handbook, Fourth Edition, January 2013:

### *Species-rich, semi-natural grassland*

HK6 Maintenance of species-rich, semi-natural grassland £200 ha

HK7 Restoration of species-rich, semi-natural grassland £200 ha

For the site specified we assumed it would involve an initial restoration of the grassland followed by its continued maintenance

2. The £200 cost was increased to £215 / hectare to account for inflation in costs since 2013.

3. Using this rate, the cost over 25 years was calculated including a modest annual 1% increase to account for inflation.

4. In addition, a one-off cost to cover habitat creation as taken from the Coventry, Solihull and Warwickshire Pilot Offsetting (CSWAPO) cost metric 2014, this was increased to £1612/ hectare to account for inflation (It is not known how this figure was originally derived).

5. At the time it was recommended this should be applied to an area of 2.26 hectares, two thirds of the size of that being lost at Maple Lodge + 10% to represent a net gain of that resource.

6. The total cost amounted to £17,725, although this may have underestimated the cost of scrub clearance if undertaken in one operation.

This approach did not follow any form of Biodiversity Metric, which calculates the existing habitat on site in terms of Biodiversity Units, as well as the impact and compensation and enhancement measures. The previous Herts Ecology approach would have identified a lower monetary value than an approach using the metric with its defined habitat unit costs, particularly given it focused only on the conservation measures considered to benefit an existing local site. However, at the time it was considered that if they could be secured, the potential benefits generated from restoring an otherwise degraded but formerly valuable Local Wildlife Site would compensate locally for the loss of a poor grassland site which did not sufficiently justify LWS status. This was considered to be reasonable and proportionate planning advice at the time given what was known of the nature of the existing site, in pursuance of a BNG approach which was, and is not yet, mandatory.

## **2.3 Appeal, June 2020.**

Following the refusal of the original 2019 application, an appeal by way of a Hearing was held in June 2020. At the appeal new photographic evidence was submitted which appeared

to show higher quality grassland was present on the site than previously considered. This was viewed by HMWT as the grassland meeting Priority Habitat status, based upon species identified in the photographs.

Furthermore, in the interim period between the HE response to the original application and the appeal, as outlined above, the Government published its updated metric and the Environment Bill, giving greater weight to the need for developments to demonstrate a measured BNG of at least 10%. To acknowledge this, at the appeal, Hertfordshire Ecology stated that if a similar application was now made, we would advise it was reasonable for the local authority to expect that a 10% net gain be calculated using the NE metric V2.

This was also reflected the Inspector's views that the benefits arising from the proposal are not [currently] measurable and that it may be beneficial to use a metric such as that produced by DEFRA [NE]. However, the use of a metric is not mandatory. However, the Inspector did not request a metric should be applied to enable further consideration of BNG, and the appeal was dismissed on other grounds.

Since the Appeal Inquiry, in July 2021 NE published V3 of the metric, adding further weight to the expected use of a metric to inform BNG.

## **2.4 New Application, 2021**

Consequently, when a new but similar application was submitted in 2021, Hertfordshire Ecology undertook a site survey to update its own understanding of the site given the local concerns and assessed the proposals using V2 of the NE Metric, to determine what contributions such an approach may generate.

## **2.5 Method used for the NE V2 Metric Calculation**

1. Following the site survey by HE in June 2021, habitats were classified according to the UK habitats descriptions as used within the metric.
2. The classification into UK habitat types requires a degree of interpretation regarding the weight given to the descriptive elements and the measurable elements for each habitat definition. Hertfordshire Ecology used a cautionary approach where there was ambiguity and ascribed habitats to the type with lowest unit value score in the metric.
3. The site visit had demonstrated that the grassland was largely characterised by areas of relatively species-poor grassland but included smaller areas with greater species interest scattered within the site. However, the grassland was not considered to meet Priority Habitat status as identified under the UK Habitats Classification due to the overall species-richness and composition.
4. In order to reflect this variation, the approximate size of these different grassland habitats areas was entered into the metric accordingly as modified grassland (which includes species-poor neutral grassland) and other neutral grassland (which includes species-rich neutral grassland). It was not considered that the grassland met priority habitat status given the relative species-richness and overall character of the site.
5. The landscape plan that formed part of the application was used to estimate the areas of retained, enhanced and new habitat resulting from the existing proposal.
6. Based on the above:
  - The existing site scores 20.40 Biodiversity Units (BU)
  - The BU lost due to development = 16.98 BU
  - Retained onsite BU = 3.42
  - The proposed landscape plan shows BU gained on site = 7.12 BU

- This leaves an on-site score of 10.54 BU.
- This results in a net loss of 9.86 BU, or a net loss of 48.35%.

7. A 10% biodiversity net gain was based upon a requirement to deliver 22.44 BU. This leaves a requirement to find 11.9 BU offsite.

8. A rate of £12000 / biodiversity unit was used to calculate cost. This is a mid-way value between the £10k-£15k figure used in the government Net gain Consultation December 2018, a range accepted by Govt in their response, until or unless it was revised.

9. The resulting total contribution based on Herts Ecology's use of the NE V2 metric is £142,800.

This is a substantially greater sum than originally proposed. This is because the original BNG assessment did not apply the metric or its assumptions regarding habitat quality, the identification of BU or specific BU costs. The LPA would now need to consider whether or how it addresses this issue in determining the BNG requirements using a biodiversity metric, and the weight it should attach to this approach given the comments made by the Inspector in the appeal decision.

### **3. Forester moth.**

#### **3.1 Conservation status**

The ecological interest present on the site was recently further informed by the recording of the Forester moth in July 2021. This is a rare moth, a UK BAP species and S41 Priority Species. Due to a marked decline 1980 – 2005 considered to be due to agricultural intensification, it was added to the UK BAP list – originally created 1995-99 - in 2007 (JNCC). However, no action plan was produced for this or any other species added in 2007, and no such plan was ever proposed given changes to the BAP process at the time, which eventually ceased to be actively supported by Government nationally and locally.

The Forester has never been common in Hertfordshire and given the last record was 1947, was considered extinct in the county (Ref. Herts Moth Group 2021). However, it was recorded on 12 July 2021 at Maple Lodge and on 16 and 19 July at Chorleywood Common, also in the SW of the county (HMG 2021). In Middx it was recorded at Bushey Park (west London) on 20 June 2020 and Trent Park (north London) on 16 July 2021, so perhaps it is beginning to re-establish itself.

#### **3.2 Ecological requirements**

Habitats associated with it as described in its own BAP review were lowland calcareous grassland and lowland meadows.

The moth's larval foodplants are Common Sorrel (*Rumex acetosa*) and Sheep's Sorrel (*Rumex acetosella*). The former is not a rare plant in Hertfordshire whilst the latter is more restricted to semi-natural acid grasslands. The newly emerged larva feed within the upper and underside surface of the leaves mining distinctive 'leaf tunnels' as they feed. Later by mid-summer, they begin to feed externally on the lower leaves of the larval foodplant until the following May. The larvae pupate in a cocoon near the ground amongst grassland vegetation. Adults feed on a range of nectar producing flowers available at any one time, including vetches, clovers, black knapweed etc.

#### **3.3 Conservation potential**

Conservation work nationally has been variously successful; it was lost from Warwickshire despite measures taken to conserve it, but the Forestry Commission (08/07/2011) reported

over 1,200 adults following creation of a 2.5 ha wildflower meadow grassland from former agricultural land at Long Newton near Middlesborough. The Upper Thames moth group reports (2019) Bucks sites with over 40 individuals, 16 individuals on a previously known site and 19 on a new site. These sites were on old ridge and furrow meadows on the clay and records more than doubled previous sighting numbers.

This suggests that the species is potentially capable of having better years and may indicate why it has been recorded at Maple Cross and Chorleywood Common in 2021. Whilst the Bucks sightings were associated with old well-established grasslands, the FC experience also suggests that new habitat can be created which is capable of being colonised by the species. This suggests that appropriate compensation measures may be successful in providing new suitable habitat resources.

### **3.4 Legal requirements**

As a S41 NERC Act species “of principal importance for the purpose of conserving biodiversity” covered under section 41 (England) of the NERC Act (2006) it therefore needs to be taken into consideration by a public body when performing any of its functions with a view to conserving biodiversity.

Consequently, in considering an application on land supporting the moth, TRDC must seek to secure its conservation. The possibility that the site has been used for breeding by the Forester cannot be ruled out given the presence of its foodplant and current rather rank nature of the sward. However, more sightings over a longer period would have strengthened this view. Nevertheless, it would seem that there are examples which demonstrate that habitat compensation could work if a suitable grassland species composition and management regime could be secured elsewhere locally. This could overcome the constraint the species may otherwise represent if it could not be retained on-site, which is unlikely if the proposals were approved. It would also ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities.

For this to happen, a suitably sized species-rich grassland supporting common sorrel and sheep’s sorrel if the ground is acidic, as well as other flowering herbs, would need to be created locally. Hay cutting and or grazing should seek to retain a short length of grass sufficient to enable overwintering of the caterpillar or pupa. Given the moth is currently recorded on a grassland of just over 2 ha, a grassland of similar size and improved composition would seem be appropriate to accommodate sufficient habitat, larval foodplants and nectar sources.

### **3.4 Conservation proposals by Greengage and financial contribution to compensate for the Forester moth**

Greengage proposed (20/08/2021) a potential conservation approach specifically to consider the Forester moth. This is presented with further background information on the ecology of the moth and proposed mitigation and management. Without appropriate management of the existing site, the habitat conditions needed by the moth are unlikely to be maintained. This supported the original BNG proposal which it was proposed would provide a level of suitable compensation habitat for the moth.

Since this letter to TRDC, and following further discussions, Greengage proposed (26/08/2021) an additional contribution based upon the original HE July 2019 BNG calculation approach outlined above, which was provided to Greengage. This calculation is based on the area of the Maple Cross site that is currently grass cover and what an additional s106 contribution could be, looking at this being applied independently to enable compensation for the Forester moth to be delivered.

Greengage stated the application site is 3.4ha, of which approximately 2ha is grass cover. If the stewardship costings that were used for the previous contribution figure of £17,725 (for 2.26ha) are applied for this area, the additional s106 contribution would amount to £16,685, resulting in a total contribution of £34,410. Greengage consider that this follows a methodology that is appropriate for a contribution to the creation and management over a 25-year period of a species rich grassland that would provide the suitable habitat conditions for the Forester moth.

Herts Ecology have no reason to object to this assumption in itself, which follows the original habitat restoration and enhancement approach and is designed to address the species interest recorded at the site. It would obviously provide more habitat compensation and thus more opportunity for the Forester to colonise a potentially suitable offsite grassland site, and in this respect is welcomed.

Whether this sum total should now be considered reasonable or sufficient given the disparity with metric costings, is another matter.

#### **4. Review of financial contributions.**

The issue of delivering BNG on this site is not disputed; the need to consider the Forester moth is also not questioned – and is in fact an obligation of the LPA. However, BNG continues to emerge and over the timescale of the applications has been further endorsed by Govt guidance and intention. This has also changed the weight that could be given to delivering BNG and how, to the extent that use of the metric would now be needed to demonstrate that measurable net gain can be achieved. This, in turn, has implications concerning the financial contributions that would be sufficient to achieve this.

Consequently, there would seem to be a number of options:

1. Maintain the existing original contribution, as originally calculated to create a suitable area of compensation grassland which could also be potentially suitable for the Forester. This would be £17,725
2. To ensure that BNG and the Forester are properly considered independently using the previous approach (technically BNG doesn't directly assess species conservation requirements), increase the contribution along the same lines for an additional area for grassland. This would essentially double the area of compensation grassland. This would be £34,410
3. Apply the NEV2 metric calculation to determine BNG requirements. This is based upon new evidence of grassland value confirmed by HE survey and the increased emphasis placed upon using the metric to determine BNG, despite the current lack of planning requirement. This should, by default, provide for a larger grassland compensation, which should also substantially benefit the moth's colonising and establishment potential. This would be £142,800.
4. A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.
5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.



#### 4.2.6 Development Plans: [No objection]

This application seeks approval for the construction of two warehouses (Class E(giii) B2/B8), comprising a total of 16,115m<sup>2</sup> B1c, including 1,882m<sup>2</sup> ancillary E(gi) Office floorspace. The application site is located in the Maple Cross/Maple Lodge site, an allocated employment area in the Site Allocations LDD (adopted 2014) (site E(d)). Policy SA2 of the Site Allocations LDD states that allocated employment sites will be safeguarded for business, industrial and storage or distribution uses. The provision of a B1a, B1c, B2 and B8 floorspace in this area of the employment site would increase the amount of employment floorspace on the site, thus safeguarding business, industrial, storage and distribution uses. Subsequently, the application complies with Policy SA2. Policy CP6(j) of the Core Strategy (adopted 2011) states that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment use in the key employment areas of the District, including the Maple Cross/Maple Lodge site. The proposal also complies with Policy CP6(j).

The South West Herts Economic Study (2018) indicates a need for 152,000sqm of B1c/B2 floorspace between 2018 and 2036 (8,600sqm per annum) and 329,500sqm of B8 (18,300sq m per annum) across the whole of South West Herts. Of these amounts, it is estimated that in Three Rivers, there should be a provision of 13,200sqm of B1c/B2 floorspace and 15,600sqm of B8 floorspace over the 2018-2036 period (or 700sqm of B1c/B2 floorspace and 900sqm of B8 floorspace per annum). This is estimated to require a land requirement of 3.3ha and 3.9ha respectively. The application proposes B2 and B8 uses to comprise the majority of the floorspace within the proposed development. The application site is an existing employment allocation which offers a suitable location to provide a proportion of the land required to meet these needs. It is therefore considered that the proposed development would strongly contribute to meeting the need for B2 and B8 floorspace set out in the South West Herts Economic Study (2018).

The proposed office floorspace is ancillary to these main uses (B2 and B8). The South West Herts Economic Study estimates that 37,600sqm of office floorspace should be provided in Three Rivers over the period of 2018-2036 (equating to 1,700sqm per annum). The proposed office floorspace (E(gi)) would contribute to meeting this need and would enable the efficient operation of the main uses (B2 and B8) and is therefore also supported.

Due to the site's formal allocation for employment uses and the future need to provide employment floorspace (as set out above), the site is considered suitable for the proposed uses and the development is supported.

#### 4.2.7 Affinity Water: [No objection subject to conditions]

Thank you for notification of the above planning application.

As a reminder, the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to our Pumping Station (SPRW) which is for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd. In addition, this proposed development is within close proximity of two other Affinity Water pumping stations with the potential to adversely impact water quality for public water supply.

We objected to the first application for this development (19/1179/FUL) and also provided representation at the associated Public Hearing to present the reasons behind our objection.

Following the rejection of the initial planning application, Affinity Water have provided the developer and their consultants with a significant amount of data to inform a DQRA and Piling RAMS that has influenced the construction and piling process, and implements

mitigation measures and controls to reduce any risks to public water supply during construction and post construction. In addition, we have carried out an extensive ongoing engagement during the development of these documents and have been given the opportunity to review and comment on the drafts and final versions before this application was submitted.

We acknowledge the engagement and cooperation in this process from the developer and their consultants and the subsequent changes, amendments and adjustments that have been made to the application, to address the concerns we have highlighted in our response to the previous application.

However, the risk to public water supply still remains due to the proximity of the development to our pumping stations, although we recognise these risks can be managed, providing the agreed plans are thoroughly adhered to. We request that the following Conditions are included if development consent is to be given and we emphasise the importance of regular consultation and dialogue throughout the construction phase alongside the proposed monitoring programme, to ensure that risks to public water supply are effectively managed:

#### C12 Piling Method Statement

Any piling or other deep foundation construction methods must be undertaken in accordance with the terms of the approved Piling Risk Assessment and Piling Method Statement dated 2 March 2021, unless details (which shall include consultation with Affinity Water) are submitted to, and approved in writing by, the Local Planning Authority.

A copy of the Piling Risk Assessment and Piling Method Statement shall be included within the package of information that forms the construction documentation for the main/and piling contractors, and kept on-site, in a position accessible to all, until the post-piling monitoring period has been completed.

The Site Manager will be responsible for ensuring that the contents and intent of the Piling Risk Assessment and Piling Method Statement are known to all persons carrying out groundworks on that site.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure and the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS). Piling has the potential to impact on local underground sewerage utility infrastructure in addition to contaminant transport to the Chalk aquifer (including manganese), turbidity in the Chalk aquifer and potentially at the PWS abstractions, and on ground permeability, which may affect groundwater levels and flows. This condition is necessary to protect underground infrastructure and water supply in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

#### C19 Decommission of investigative boreholes

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected (and details of the consultation undertaken with Affinity Water). The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in accordance with Policies CP1 and CP8

of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

#### C31 Dewatering method statement

No dewatering shall take place. Should dewatering be necessary, no dewatering shall occur until a Dewatering Method Statement (detailing the dewatering method and predicted impact on groundwater flow and details of the consultation undertaken with Affinity Water) has been submitted to and approved in writing with the Local Authority. Any dewatering must be undertaken in accordance with the terms of the approved dewatering method statement.

Reason: The proposed work will be within the source protection zone of one or more of AffinityWater's groundwater abstractions for Public Water Supply (PWS) and within 500 m of the Clubhouse/Marsh Lakes within Maple Lodge Nature Reserve. This condition is necessary to protect water supply and the environment in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

#### Conditions to be displayed on site

A copy of all conditions addressing groundwater protection, foundation design and site drainage, and any other groundwork or surface water matters and details submitted during the discharge of conditions, and approved pursuant and subsequent to this consent, shall be displayed at the site office at all times.

The Site Manager will ensure that the contents and intent of each are known to any persons given responsibility for operational management or control of the site, or carrying out works on that site.

Reason: To ensure that any potential contamination or other activity likely to pose a risk to groundwater and public water supply, is recognised, monitored and managed by all contractors on site, in good time.

4.2.8 National Grid: No response received.

4.2.9 Landscape Officer: [No objection subject to conditions]

#### TREES

Recommend: Approval, subject to conditions

The submitted tree report indicates that a small number of poorer quality trees would be removed to facilitate the development. However, this is substantially less than was proposed in a previous application for the site. This previous application was dismissed at appeal, however the Inspector made clear in the decision that the impact on trees was not a reason for dismissal and that the impact had been reduced during the planning process. The remedial landscape plans submitted for this application indicate that a substantial number of replacement trees would be planted, following development. If the application is approved, a tree protection method statement should be required to ensure retained trees are protected during development. A condition should also be applied that requires the applicant to fully implement and remedial landscaping scheme submitted as part of the application.

4.2.10 Thames Water: [No objection subject to conditions]

4.2.10.1 Initial comments 12.03.2021: [No objection subject to conditions]

## Comments:

The proposed development is located within 15 metres of a strategic sewer. Thames Water requests the following condition to be added to any planning permission. "No piling shall take place until a PILING METHOD STATEMENT (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement."

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure. Please read our guide 'working near our assets' to ensure your workings will be in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection. Should the applicant subsequently seek a connection to discharge Foul Waters to the public network in the future, we would consider this to be a material change to the application details, which would require an amendment to the application and we would need to review our position.

The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

## Water Comments:

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

Supplementary Comments

Please find below Thames Water properties comments on the above consultation. The comments are to accompany the attached plan.

**DTS 68934 Maple Lodge, Maple Lodge Close, WD3 9SN**



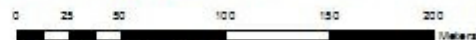
**Thames Water Map**



Printed By : mhazeldi  
 Print Date : 12/03/2021  
 Map Centre On : 503717, 192854  
 Centre Tile No. : TQ0392NE

Comments:

04 90016



Current Scale : 1:2,500

Disclaimer: Based on the Ordnance Survey Map with the sanction of the Controller of Her Majesty's Stationery Office License Number: 100049903

The position of any boundary or apparatus shown on this plan is given without obligation and warranty, and the accuracy cannot be guaranteed.

Service pipes are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Thames Water for any error or omission. The actual position of mains and services must be verified on site before any works are undertaken.

Copyright: Unauthorised reproduction prohibited. Crown Copyright Reserved.



There are easements and wayleaves running through the site. To the east south of the site sits Maple Cross Sewerage Pumping Station. On the Map a blue outlined box shows the

assets, yellow dashed lines show the easements and wayleaves and the proposed development area is identified by a red outlined box. The company will seek assurances that it will not be affected by the proposed development.

The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows:

Thames Water Developer Services, Reading Mail Room, Rose Kiln Court, Rose Kiln Lane, Reading, RG2 0BY, Tel: 0800 009 3921, Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)

4.2.10.2 Officer comment: In their initial comments above Thames Water noted that; “The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection”. In view of the fact that the submitted Flood Risk Assessment states that; “The site will discharge foul water to the public foul sewer to the north of the site”, Thames Water were asked to review their comments. Their revised comments are included in full at 4.2.10.3.

4.2.10.3 Further comment 22.04.2021: [No objection subject to conditions]

#### Waste Comments

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

The proposed development is located within 15 metres of a strategic sewer. Thames Water requests the following condition to be added to any planning permission. “No piling shall take place until a PILING METHOD STATEMENT (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.” Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure. Please read our guide ‘working near our assets’ to ensure your workings will be in line with the necessary processes you need to follow if you’re considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn’t materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don’t surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.



Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

#### Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

#### Supplementary Comments

There are easements and wayleaves running through the site. To the east south of the site sits Maple Cross Sewerage Pumping Station. On the Map a blue outlined box shows the assets, yellow dashed lines show the easements and wayleaves and the proposed development area is identified by a red outlined box. The company will seek assurances that it will not be affected by the proposed development.

The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows:

Thames Water Developer Services  
Reading Mail Room  
Rose Kiln Court  
Rose Kiln Lane  
Reading  
RG2 0BY

Tel: 0800 009 3921

Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)

4.2.11 Environmental Health (Residential): [No objection subject to conditions]

4.2.11.1 Initial comments 22.05.2021: [No objection subject to conditions]

Having reviewed the submitted documents the noise assessment which has been included is robust. The methodology used is reasonable given the location and proposal. The monitoring/assessment locations are appropriate and logical to be able to make a fair assessment.

The noise criteria used and the assumptions made based on the information available appear to be reasonable and sensible.

I would agree with the recommendation to attach 2 conditions one in relation to the construction management plan and the second regarding any plant that is to be installed. I see no reason to deviate from the conditions suggested in the noise assessment document.

4.2.11.2 Officer comment: Following receipt of a Noise Report submitted by the Residents Association and additional information provided by the applicant in response to that, Environmental Health were asked to review/provide further comment.

4.2.11.3 Further comments 13.08.2021: [No objection subject to conditions]

I have reviewed the further documents submitted, the key discussion point is on the methodology and assumptions made particularly around whether a background assessment should be undertaken or absolute sound levels used.

There are arguments for both methods to be used and it depends on the relevant documents used. Whilst previous versions of BS4142 define some terms the current version does not and refers to other documents including WHO guidance and Planning guidance.

Assessing this from the point for the local authority I would argue that the primary focus of a noise assessment is to protect our residents and ensure that any potential impact on the environment is considered.

BS4142 should be taken as a whole in the context of its purpose, highlighting particular sections can result in that part being taken out of context.

Ultimately this proposal is for the development of industrial units in a currently predominantly residential area which is relatively quiet when compared to other parts of the district.

With regard to the consideration of the properties to the east of the site, whilst the reasoning submitted by the applicant is reasonable it would be prudent to demonstrate that by assessment prior to the site being brought into use.

I would recommend that the condition proposed by Cass Allen would give greater protection to the existing environment.

4.2.12 Environmental Health (Commercial): [No objection subject to conditions]

#### Air quality

I have reviewed the Air Quality Assessment prepared by BWB Consulting Ltd (Report ref. LNT2082-001).

A qualitative construction phase dust assessment has been undertaken in accordance with the IAQM Guidance on the assessment of dust from demolition and construction. Measures have been recommended for inclusion in a Dust Management Plan to minimise emissions during the construction phase. With the implementation of these mitigation measures the residual impacts of construction phase are considered to be 'not significant'.

The trip generation for the proposed development was screened in accordance with the two stage screening process described in the EPUK & IAQM Land-use Planning & Development Control: Planning for Air Quality guidance. The trip generation for the proposed development is predicted to be 901 trips as a 24 hour Annual Average Daily Traffic (AADT) flow, 129 of which would be HDVs. The proposed development trip generation exceeds the criteria set out in the EPUK & IAQM guidance, however, the greatest increase in traffic on roads where existing sensitive receptors are present (on the A412 Denham Way south of the site access road) is 173 trips, of which 25 are HDVs.

This increase is below the stage 2 criteria set out in the guidance (a change of LDV flows of more than 500 AADT outside an AQMA and a change of HDV flows of more than 100 AADT outside an AQMA). The impact on local air quality is considered to be insignificant. A detailed air quality assessment including dispersion modelling is not required.



I would recommend that a condition requiring a dust management plan be applied to any permission granted. The dust management plan should include the recommended mitigation measures as detailed in Table 4.4 and Table 4.5 of the Air Quality Assessment.

I would suggest informatives relating to the following:

- The use of vehicles that meet the most recent European emissions standards;
- Following relevant guidance such as the IAQM guidance.

#### Land contamination

I have reviewed the following documents:

Site Investigation and Geo-Environmental Assessment Report prepared by ESI Environmental Specialists (Report Ref. 62409D1), June 2014;  
Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), 9th February 2021;  
Method Statement for Monitoring Well Decommissioning prepared by Tier Environmental Ltd (Report ref. TL1177MWDECOM.MS1.2), 23rd February 2021;  
Maple Cross Contaminated Land Assessment and DQRA – Summary report prepared by H Fraser Consulting Ltd (Report ref. 30422R1), 2nd March 2021;  
Piling Method Statement and Risk Assessment for Maple Cross, Hertfordshire prepared by Tier Environmental Ltd (Report ref. TL1177PMSRA1.2), 2nd March 2021.

The intrusive investigations have not identified any elevated concentrations of contaminants of concern in exceedance of the relevant generic assessment criteria. The investigations have identified the existence of a complete contaminant linkage with regards to asbestos fibres and fragments in the underlying soils. It is considered that the site presents a potentially unacceptable risk from asbestos to human health for a commercial/industrial land use.

Outline remedial measures have been discussed in the report. These include the following:

- Preparation of a Remediation Strategy;
- Removal and verification of areas containing heavily impacted asbestos soils for disposal as hazardous waste, verification of excavations to validate complete removal;
- Removal and segregation of areas containing impacted asbestos soils through hand-picking of visibly identifiable ACM fragments for disposal as both non-hazardous (bulk soils) and hazardous waste (reduced asbestos volume). Verification sampling of excavations to validate complete removal\*;
- Removal and verification of any previously unidentified areas of contamination, where required:
- Backfill of resultant excavations with suitable material;
- Laboratory chemical testing and risk assessment of imported materials required for the for the clean cover system;
- Installation of a 300mm clean cover system at the site in the soft landscaping areas.

\*I have been advised by the environmental consultants that the developer has chosen to undertake these works voluntarily.

Further details were provided in a previously submitted technical note. The physical barriers provided by the hardstanding of the development and the clean cover system are considered suitable measures to break the pathway between any remaining sources of contamination and sensitive receptors.

Based on this, the following contaminated land condition is recommended on this **and any subsequent applications** for the site.

1. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

i) An options appraisal and remediation strategy, based on the Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), with particular reference to the outline measures detailed in Section 11.9 of the report and Appendix R – Technical Note Asbestos At Maple Cross, giving full details of the remediation measures required and how they are to be undertaken.

ii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (i) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

2. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

The above must be undertaken in accordance with the Environment Agency's 'Land contamination risk management (LCRM)' guidance, available online at <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>.

3. Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## INFORMATIVES:

Information for Developers and guidance documents can be found online at [https://www.watford.gov.uk/info/20011/business\\_and\\_licensing/349/contaminated\\_land](https://www.watford.gov.uk/info/20011/business_and_licensing/349/contaminated_land)

### 4.2.13 Environmental Protection: [No objection]

Verbal advice – Note that private collection is intended, however, raise no objection to the location/size of refuse storage areas proposed.

### 4.2.14 London Borough of Hillingdon: [No objection]

No objection/comments.

### 4.2.15 TRDC Traffic Engineer: No response received.

### 4.2.16 Colne Valley Partnership: [Objection]

The Colne Valley Park CIC exists to maintain and enhance the Colne Valley as the first taste of countryside to the west of London for the benefit of more than three million people who live within 10 miles of the Park. The Park covers an area from Rickmansworth to Staines, across parts of Herts, London, Bucks, Berks and Surrey. The six objectives of the Park are:

1. **To maintain and enhance the landscape**, historic environment and waterscape of the Park in terms of their scenic and conservation value and their overall amenity.
2. **To safeguard the countryside** of the Park from inappropriate development. Where development is permissible it will encourage the highest possible standards of design.
3. **To conserve and enhance biodiversity** within the Park through the protection and management of its species, habitats and geological features
4. **To provide opportunities for countryside recreation** and ensure that facilities are accessible to all.
5. **To achieve a vibrant and sustainable rural economy**, including farming and forestry, underpinning the value of the countryside.
6. **To encourage community participation** including volunteering and environmental education. To promote the health and social well-being benefits that access to high quality green space brings.

The whole of application site 19/1179/FUL is located within the Colne Valley Regional Park.

The designation of the majority of the site as flood zone 1 may not have taken local circumstances into account: There are regular flooding problems along the loop road and the proposed development site.

We support the comments made by the Herts & Middlesex Wildlife Trust in their letter dated 26<sup>th</sup> March about evidence of biodiversity value of the site, need for survey at the optimal time of year and concerns about how biodiversity net gain has been measured.

The public path around Springwell Lake, a designated Site of Importance for Nature Conservation is popular with walkers, bird watchers and fishermen who enjoy the tranquil natural habitat **and the countryside/green setting** of this site which will be compromised by this development just 200m away that will result in visual, light and noise intrusion. Effects will also be felt at other nearby wildlife sites of Maple Lodge Marsh and Maple Lodge Nature Reserve. This is in contravention to two TRDC Local Plan Policies:

DM7 “b).....the Council will require proposals to make a positive contribution to the surrounding landscape. Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission.....”

DM9.”...d) Planning permission will not be granted for development which:.....

ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation....e) Development proposals which include external lighting should ensure that:....ii) There is no unacceptable adverse impact on neighbouring or nearby properties iii) There is no unacceptable adverse impact on the surrounding countryside....vi) There is no unacceptably adverse impact on wildlife vii) Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting scheme is sensitively designed to prevent negative impacts on use of these habitats and habitat features.”

We do not believe the cumulative impact of development is properly being addressed. In the Colne Valley Regional Park local residents are subject to many proposals in a small area, including High Speed 2, two Motorway Service Areas, Heathrow expansion, a huge screen hub, multiple housing developments/removals from the green belt in current and forthcoming local plans. Individually and collectively these will fundamentally change the character of the area with no proper joined up planning and insufficient mitigation from each development.

The Colne Valley Park CIC therefore **objects to this application**

If the council is minded to approve, or it is subsequently approved upon appeal, we strongly urge that conditions are imposed to ensure mitigation to deliver the objectives of the Colne Valley Regional Park for the benefit of local residents and wildlife in the area around the site including Maple Lodge Nature Reserve, Maple Lodge Marsh, Woodoaks Farm, Rickmansworth Lakes Circular Walk, Springwell Lake and the River Colne. The S106 from the previous development of a few thousand pounds for biodiversity and a travel plan are tiny when compared to the statistics of economic benefit quoted in section 9.3 of the planning statement. We point out that there are three pillars of sustainability and that Economic considerations should not trump Social or Environmental considerations. If approved, a development of this scale and supposed economic benefit must provide more for the benefit of the local community and local landscape that are forced to host it. In the event of the application being approved we invite the applicant to discuss suitable mitigation with us to be delivered through a s106 or other suitable agreement.

#### 4.2.17 Heritage Officer: [No objection]

This application is for comprehensive redevelopment to provide 2 no. warehouse Class E(giii)/B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works.

A previous application (19/1179/FUL) was refused and dismissed at appeal (APP/P1940/W/19/3243565).

The site is to the north of Maple Lodge, a Grade II listed farmhouse which largely dates from the nineteenth century, incorporating elements of an earlier, seventeenth century building (list entry number: 1173687). A separately Grade II listed barn, assumed to date from the seventeenth century, is located to the west of the farmhouse (list entry number: 1100856).

The first edition OS map shows that the farm was historically isolated, forming part of a larger network of farms and arable land within the rural Rickmansworth area. The submitted Heritage Statement demonstrates that the land historically associated with Maple Lodge Farm does not fall within the application site and the listed buildings lack a functional relationship with the site. It is also recognised that there is limited inter-visibility between the farmhouse and the application site due to the existing planting and hedgerow. Despite this, concerns were raised previously that the proposed development would still impact the settings of the listed buildings by introducing large scale buildings closer to the historic

farmstead and further removing it from its historic context set within a relatively open landscape.

As the site is limited in its contribution to the setting and significance of the listed buildings, it was considered that any harm arising would be at the low end of 'less than substantial'.

It is recognised that the appeal was dismissed due to impacts on groundwater and risks to the public water supply and that the Inspector found no harm to the heritage assets stating: *I therefore do not agree that the proposal would further diminish the rural setting of Maple Lodge Farm or detract from the way in which the listed buildings are understood and experienced* (para. 117).

As noted in comments on the previous scheme, there is no in principle objection to the sensitive development of the site. Whilst there were concerns previously regarding the scale of the development, it is accepted that the Inspector found no harm to the listed buildings and an objection is no longer raised.

#### 4.2.18 HCC Growth & Infrastructure Unit: [No objection]

I refer to the application as mentioned above and am writing in respect of planning obligations sought by the County Council towards early years provision; primary and secondary education; library; youth; waste; and adult care services to minimise the impact of development on Hertfordshire County Council Services for the local community.

We will not be seeking financial contributions at this point. This is because the development is for ten units or less and has a maximum combined gross floorspace of no more than 1000sqm. However, you may receive separate comments from the Highways Unit.

Please note that this does not cover the provision of fire hydrants, and we may contact you separately regarding a specific and demonstrated need in respect of that provision.

#### 4.2.19 HCC Waste & Minerals Team: [No objection subject to conditions]

I am writing in response to the above planning application insofar as it raises issues in connection with minerals or waste matters. Should the District Council be minded to permit this application, a number of detailed matters should be given careful consideration.

#### **Minerals**

In relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in Hertfordshire County Council's Minerals Local Plan 2002 – 2016. The Sand and Gravel Belt', is a geological area that spans across the southern part of the county and contains the most concentrated deposits of sand and gravel throughout Hertfordshire. In addition the site falls entirely within the sand and gravel Mineral Safeguarding Area within the Proposed Submission Minerals Local Plan, January 2019. It should be noted that British Geological Survey (BGS) data also identifies superficial sand/gravel deposits in the area on which the application falls.

Adopted Minerals Local Plan Policy 5 (Minerals Policy 5: Mineral Sterilisation) encourages the opportunistic extraction of minerals for use on site prior to non-mineral development. Opportunistic extraction refers to cases where preparation of the site for built development may result in the extraction of suitable material that could be processed and used on site as part of the development. Policy 8: Mineral Safeguarding, of the Proposed Submission document relates to the full consideration of using raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.

The county council, as the Minerals Planning Authority, would like to encourage the opportunistic use of these deposits within the developments, should they be found when creating the foundations/footings. Opportunistic use of minerals will reduce the need to transport sand and gravel to the site and make sustainable use of these valuable finite resources.

## **Waste**

Government policy seeks to ensure that all planning authorities take responsibility for waste management. This is reflected in the County Council's adopted waste planning documents. In particular, the waste planning documents seek to promote the sustainable management of waste in the county and encourage Districts and Boroughs to have regard to the potential for minimising waste generated by development.

The Ministry of Housing, Communities and Local Government (MHCLG) sets out in the *National Planning Policy for Waste (October 2014)* the following:

*'When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:*

- the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and, in less developed areas, with the local landscape. This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;*
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.'*

This includes encouraging re-use of unavoidable waste where possible and the use of recycled materials where appropriate to the construction. In particular, you are referred to the following policies of the adopted Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document 2012 which forms part of the Development Plan. The policies that relate to this proposal are set out below:

Policy 1: Strategy for the Provision for Waste Management Facilities. This is in regards to the penultimate paragraph of the policy;

Policy 2: Waste Prevention and Reduction; &

Policy 12: Sustainable Design, Construction and Demolition.

In determining the planning application the District Council is urged to pay due regard to these policies and ensure their objectives are met. Many of the policy requirements can be met through the imposition of planning conditions.

Waste Policy 12: Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP). This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to.

The SWMP or Circular Economy statement should be set out as early as possible so that decisions can be made relating to the management of waste arisings during demolition and construction so that building materials made from recycled and secondary sources can be used within the development. This will help in terms of estimating what types of containers/skips are required for the stages of the project and when segregation would be

best implemented for various waste streams. It will also help in determining the costs of removing waste for a project. The total volumes of waste during enabling works (including demolition) and construction works should also be summarised.

SWMPs should be passed onto the Waste Planning Authority to collate the data. The county council as Waste Planning Authority would be happy to assess any SWMP that is submitted as part of this development either at this stage or as a requirement by condition, and provide comment to the Borough Council.

### **Safeguarded Waste Site**

The proposed development site is located north of the Safeguarded Area SA143 STW Maple Lodge. It should be noted that Maple Lodge Sewage Treatment Works is a permanent existing operational waste site which is safeguarded under Waste Policy 5: Safeguarding of Sites, in the county council's Waste Core Strategy and Development Management Policies document, adopted November 2012 as they contribute to a strategic network of waste management provision within the county. Whilst the county council does not object to this proposed development, any further proposals should not prejudice the site's use a sewage treatment works.

The relationship between any proposed development alongside a safeguarded waste facility needs to be considered carefully to ensure that the operation of the existing waste facility is not jeopardised by a conflict between differing land uses.

Consideration should be given to the 'Agent of Change' principle (NPPF, paragraph 182) which states that planning decisions on new developments should ensure integration with existing business such that they do not have unreasonable restrictions placed upon them. The district council would need to satisfy itself that the design of the proposed 2no. warehouses has taken into account the need to mitigate any negative impacts (such as noise, dust and odour) arising from the proximity to the existing sewage treatment works facility.

#### **4.2.20 Herts. Constabulary: [Advisory comments]**

My comments are made from a crime prevention and security perspective only. Although security has been addressed for this site as detailed in the Design and Access statement (4.9, Page 25/32) I would ask that the site /warehouses are covered by CCTV.

#### **4.2.21 Herts & Middlesex Wildlife Trust: [Objection]**

##### **4.2.21.1 Initial comments 15.04.2021: [Objection]**

Botanical survey needs to be resubmitted with an NVC assessment, in light of new evidence. Biodiversity net gain has not been objectively measured by reference to the Defra biodiversity metric and therefore has not been proven.

Two developments have occurred since the previous application was refused at appeal, which materially affect this proposal.

1. The first of these is that evidence has come to light that there is more botanical interest on the site than indicated in the Greengage report. Photographs from the site recorded at the optimum time for botanical surveys (MLCS 16/06/2020) show that there is a strip of what appears to be priority grassland habitat running down the centre of the site. This has not been reflected in the ecological report, which records homogenous habitat, bringing its accuracy into question. Greengage have not actually conducted botanical surveys on the site at the correct time of year, either to support this application or the previous one. In their latest report, they acknowledge in 3.27 that botanical survey timings were sub optimal and

recommend that a an NVC survey is conducted to provide a definitive assessment of the grassland in 5.2 and 5.15, yet this has not been undertaken.

An NVC survey is a botanical survey but to a higher degree of accuracy than the sub optimal (their words) botanical surveys that have been submitted to date. HMWT concur with the need for an NVC survey because there is obviously some discrepancy between their survey and what MLCS have observed on site. In light of the photographic evidence supplied by the MLCS, this survey must be completed and verified independently by TRDC, before a decision can be made on this site. The quality of the grassland fundamentally affects the application, and the conclusions reached in the Inspectors report, so this must be undertaken before making a decision.

It should be noted that when the Greengage floral species list is added to the species seen in the photographs in the MCLS survey, the number of Herts Local Wildlife Sites grassland indicator species reaches 12. The number required to designate a site as a Local Wildlife Site is 8. This significantly elevates the ecological status of the site.

It should also be noted that although Greengage reference a 2014 NVC survey in their report, this has never been produced as evidence, and more pertinently is out of date.

2. Since the previous submission, two new documents have come to light that reinforce the need for a 'measurable' biodiversity net gain, by reference to the Defra Biodiversity Metric.

**Firstly**, at the appeal hearing, the requirements of the Three Rivers Validation Checklist (revised 2018) were not referred to. <https://www.threerivers.gov.uk/download?id=42730> This document is clear that in certain situations, the Defra biodiversity assessment metric must be used to assess ecological impacts. This is TRDC policy. It states:

*11) Biodiversity Assessment:*

*The Natural Environment and Rural Communities Act 2006 places a duty on Local Authorities to have regard to the conservation of biodiversity in exercising their functions, and includes the planning process. This is also reflected in the NPPF and accompanying NPPG, highlighting the need for the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible, based on adequate ecological information. Natural England's Standing Advice on Protected Species is important and the British Standards Institution has published a detailed Code of practice for planning and development, Ref BS 42020:2013. Biodiversity Offsetting is another means of assessing impacts and delivering enhancement opportunities and may be appropriate in certain situations, which includes the DEFRA biodiversity assessment metric.*

*Development Management therefore requires sufficient information to enable this process to operate successfully, which should be relevant, necessary and material to the proposals. Information provided by professional ecologists should be submitted with an application when it is likely to affect:*

- *Internationally and nationally designated sites*
- *European and nationally protected species*
- *Non-statutory designated sites*
- *Priority habitats and species*
- *Non-priority habitats impacted by major development and*
- *Significant populations of national or local red list or notable species*

*Work associated with ecological surveys, impact assessments and measures for avoidance, mitigation or compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development. In order to fulfil the NPPF requirement for no net loss or net gain in biodiversity, the DEFRA biodiversity metric calculation should show a net positive score.*



In this situation, there is more than enough justification for this mechanism to be used. Its inclusion in local policy means that it must be considered a mandatory requirement for assessing net gain in situations such as this one. In her report the inspector stated:

*100. I agree with Mr Dodds that the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA. However, the use of a metric is not mandatory.*

The inspector was not shown this validation checklist requirement and therefore drew her conclusion without sight of the document. Its contents refute the 'not mandatory' judgement of the statement above and must be revisited.

The Defra metric must now be used to quantify the existing value of the grassland so that it can be meaningfully, and more importantly, measurably, compensated, as required by NPPF. The application cannot be determined without this, in accordance with the TRDC validation checklist.

During the appeal, Hertfordshire Ecology represented TRDC. In the appeal they stated that were the application to be resubmitted they would request the use of the Defra metric but at the time of making their submission, they said;

*99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement.*

In the intervening time Herts Ecology appear to have developed confidence in the Defra metric, and have advocated its use to other Hertfordshire local planning authorities, insisting on its use to determine biodiversity net gain and we would therefore expect this to be the same for this case in Three Rivers

e.g.

Dacorum 20/02519/MFA. Herts Ecology advise the LPA that;

*'No formal proposals for demonstrating or delivering Biodiversity Net Gain (BNG) have been provided in the planning statement. Whilst this is currently not a mandatory requirement, the weight that should now be attached to this emerging Government policy is quite clear, as is the process to demonstrate that it can be achieved (a Biodiversity metric; NE v2 is recommended). For major developments of this nature and given the impact it will have, BNG should now be considered as a necessary expectation of any such planning proposal. This is consistent with other similar development proposals in and around Hemel Hempstead'*

In accordance with the views of their own ecological advisors, TRDC must require a Defra biodiversity metric assessment to quantify the ecological impact of the proposal. This is required to measure the necessary mitigation and compensation in an objective way without the recourse to the entirely subjective 'expert judgement'. This application cannot be determined without this information because it materially affects the measurement of the impacts and the compensation required.

**Secondly**, on the 8<sup>th</sup> of March 2021, the Three Rivers Climate Emergency and Sustainability Strategy was approved by the Policy and Resources Committee. In this document it states:

Page 28:  
"Biodiversity

*Aim: To plan for net gains in biodiversity to address the ongoing Ecological Emergency, protect and enhance precious habitats and species, and utilise nature to build climate resilience*

Page 29:

*“Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats.”*

The only way to measure a 10% net-gain in biodiversity is by reference to the Defra biodiversity metric. Therefore, in accordance with the stated Climate Emergency and Sustainability Strategy, a Defra metric assessment must be made of this application to determine if it reaches the 10% net gain level.

I should also draw to your attention the gov own national planning guidance on the natural environment <https://www.gov.uk/guidance/natural-environment>

This states:

### ***What is biodiversity net gain?***

*The National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.*

### ***How can biodiversity net gain be achieved?***

*Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved.*

### **Conclusion**

When all these points are considered, it is clear that TRDC must request a better botanical survey from the applicant (as advised by their ecological advisors) that includes an NVC assessment. This must be used to accurately identify the presence or otherwise of priority grassland habitat, and be verified independently.

When this information has been approved, it must be used to populate a Defra biodiversity metric assessment of the site. This information should then be used to assess whether the site achieves a biodiversity net gain of 10%, and if not, to quantify (in habitat units) exactly how much compensation will be required to achieve a measurable biodiversity net gain.

Once this figure is known, a biodiversity offset must be offered to TRDC or an acceptable, defensible, fully costed financial agreement to deliver the shortfall number of habitat units in perpetuity (30 years). The grassland offset habitat must be better in quality than that which was lost, i.e. it must be a trade up in quality – as per the Biodiversity Offsetting guidelines.

#### 4.2.21.2 Further comments 05.08.2021: [Objection]

1. Greengage NVC survey is not consistent with NVC survey methodology as set out in NVC users handbook, Rodwell, J., JNCC, 2006, indicator species evident and abundant in photographs not recorded in limited species list, no quadrat data supplied, no photographs supplied, botanical data therefore not sufficient.

2. Herts Ecology Defra metric assessment not correctly populated. Photos demonstrate more LWS indicator species present than recorded during assessment survey, thus elevating its status.
3. No strategy for ensuring conservation of priority species, Forester moth.
4. NPPF requirement for net gain not demonstrated.

Since the previous comments of HMWT on this application several pertinent submissions have been received by the LPA. An NVC survey submitted by Greengage, A site survey, botanical assessment and Defra metric assessment from Herts Ecology, revised comments from Herts Ecology incorporating new Greengage information, the discovery of the species of principal importance or the purpose of conserving biodiversity in England, the Forester moth. These comments are intended to address these submissions for the LPA to consider.

1. Greengage submitted a species list and summary NVC assessment on the 7<sup>th</sup> July 2021. This survey contained no quadrat data, no relative abundance data, no maps, no photographs of the site or communities, and missed several important indicator species as seen in quadrat photos of the site provided by the Maple Cross Conservation Society, some of which were abundant. The correct methodology for conducting an NVC survey is described in NVC users handbook, Rodwell, J., JNCC, 2006. The survey has not provided evidence to suggest it is consistent with this methodology, i.e. quadrat data, relative abundance etc. The survey cannot be considered a reliable botanical survey or NVC assessment because it does not provide the evidence that sits behind its evaluation of the NVC communities present, and indeed which are refuted by the photographs.

In several of these photos, abundant Bird's-foot Trefoil (*Lotus corniculatus*) is recorded. It is recorded in conjunction with abundant Black Knapweed (*Centaurea nigra*) and Red Fescue (*Festuca rubra*) amongst other significant forbs and herbs. The significance of this is that if these species occur together (as they do) they indicate that elements of the grassland most closely resemble NVC community MG5, which is a priority habitat i.e. lowland meadow. This is also recognised in the botanical assessment made by Herts Ecology and their comments in the Defra metric spreadsheet which says in the A1 Site Habitat Baseline line 1;

*Other Neutral Grassland was chosen as a medium value distinctiveness, to reflect the mix of small areas of lowland acid grassland (g1a) with characteristic species and the areas with a species mix more characteristic of lowland meadow (G3a) and a LWS.*

HE go on in their site description to state that they do not think there is enough of this habitat to warrant categorisation as lowland meadow. I disagree with this assessment and will further discuss this later. But by this statement they acknowledge that this community is present.

The issue is, how could an assessment of NVC communities miss the abundant presence in a large swathe of the site (the most species rich swathe of the site) of an obvious and significant species in terms of defining the NVC community? Herts Ecology recorded it, so did Maple Lodge Conservation Society, indeed it can be seen from the road. The absence of this plant from the species list (and several others such as Tufted Vetch (*Vicia cracca*) seen in the photos and also a LWS indicator species) cast considerable doubt on the veracity of the botanical survey and NVC assessment. It should not be accepted without quadrat data, quadrat locations, maps and photographs.

2. Herts Ecology have helpfully attempted to populate a Defra metric to give some indication of the baseline value of the site. However, they have miss populated much of the habitat as 'modified grassland'. This significantly affects the baseline value of the grassland. The UK habs definition of modified grassland is:

*G4 Modified grassland*

*Definition: Vegetation dominated by a few fast-growing grasses on fertile, neutral soils. It is frequently characterised by an abundance of Rye-grass and White Clover.*

This is an agricultural mix in origin not a semi-natural one. Modified grassland is not what has been described in their site description. What is described in their site description is a False Oat-grass dominated sward. The majority of the site is described by them as:

*Overall, a general abundance of Arrhenatherum elatius gives the impression of rough rather species-poor grassland. In several areas – particularly to the north and west, Arrhenatherum does indeed become largely dominant giving rise to rank, species-poor communities.*

This community fits with the UK Habs definition for other neutral grassland sub category c5.

*G3c5 Arrhenatherum neutral grassland*

*Definition: Neutral grassland with False Oat-grass dominant*

When the metric is adjusted to reflect this the baseline increases to 24.18 habitat units.

In the comments section of the metric for line 1 and an area of other neutral grassland HE state:

*Other Neutral Grassland was chosen as a medium value distinctiveness, to reflect the mix of small areas of lowland acid grassland (g1a) with characteristic species and the areas with a species mix more characteristic of lowland meadow (G3a) and a LWS.*

Lowland meadow is a priority habitat and should be recorded as such in the metric and properly accounted for. This further elevates the habitat unit score of the metric.

I understand that the HE population of the metric was designed to be helpful – and is to a degree, but it is a long way from being acceptable in terms of how it has been populated. Similarly, the valuation of the unit price for compensation is misleading. HE have based this score on national generic estimates. HMWT have created an offset cost calculator for different habitats and for Hertfordshire. The cost for compensating this habitat (other neutral grassland) is much more than 12k per habitat unit. It is much closer to 30k per unit to create and maintain for 30 years – but this would reduce if the offset area was greater. The point is that the figure offered by HE whilst well intentioned is not close to the actual figure required. This is much greater and should be established and legitimised before planning is decided because it fundamentally affects the financial viability of the scheme.

3. The discovery on site of the priority species Forester moth also fundamentally affects the decision. TRDC have a legal responsibility to conserve this species. It is also a requirement of the planning process.

This is the first record of Forester from Herts since 1976 at Albury Nowers. The Herts State of Nature Report consider it a Herts Species of Conservation Concern as they were thought to be extinct in the county – until now. They are currently listed on Section 41 of the 2006 NERC Act and the UK BAP 2007. This means that if this development were to go forward as proposed it would result in the extinction in Hertfordshire of a Species of Principle Importance for Biodiversity Conservation in England.

NPPF states:

*174. To protect and enhance biodiversity and geodiversity, plans should:*

*b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

The Three Rivers Local Plan states:

*DM6: Development should result in no net loss of biodiversity value across the District as a whole.*

*a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:*

*i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and*

*ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.*

Given that no actual physical mitigation or compensation has been put forward to safeguard against the local extinction of this Species of Principle Importance for Biodiversity Conservation in England, this development cannot be considered compatible with NPPF or the Three Rivers Local Plan. It is irrelevant whether the site has been allocated or not, NPPF and the Local Plan still apply. Three Rivers have an obligation not just to their district but to the county of Hertfordshire to conserve this species.

This is not just a planning duty but a legal duty. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on public authorities to have regard for the conservation of biodiversity when delivering their functions. Leaving aside all the other issues with this application and the ecological information supporting it, if NPPF and the Local Plan are applied, and indeed NERC, this application must be refused.

Theoretically if compensation were feasible for this species it may be possible to design such a scheme. However, this is a species of such rarity and specific habitat requirements that it is highly unlikely to be possible. The Bucks county moth recorder commented thus:

*'what is noticeable here in the Bucks/Oxon border area, where we still have quite a few small colonies, is that by far the majority are on ancient ridge-and-furrow meadows where the flora has remained undisturbed for centuries. I don't know what type of habitat the Maple Cross example was found in but I would have thought trying to recreate that kind of site as part of any mitigation for the species would be next to impossible.'*

HMWT would be open to review any mitigation or compensation scheme but this must be verified and endorsed by acknowledged and independent entomological experts before being accepted. Without an approved scheme this application must be refused.

4. Net biodiversity gain. The NPPF requirement for biodiversity net gain is a requirement of both local and national planning decisions (as set out in my previous comments 15 April 2021). This applies to species and habitats and must be measurable. Since these comments, the following appeal ruling has come to light to demonstrate this: APP/M2270/W/18/3215766

Land at Common Road, Sissinghurst, Cranbrook, Kent TN17 2JR

This appeal contains the statement:

*32. An empirical means of measuring whether the mitigation listed by the appellant would result in a net gain in biodiversity has not been submitted. Therefore, I cannot be certain*

*the measures would result in a net gain, as required by Paragraph 170 of the National Planning Policy Framework.*

This ruling is significant in 2 ways. Firstly, it reaffirms the need for a measurable assessment of ecological value i.e. the Defra metric, and secondly it clarifies that NPPF requires planning decisions to result in net gain. This planning application does not contain a measurable assessment of net gain and is therefore not compliant with national or local policy. It must be refused without this information.

#### 4.2.21.3 Further comments 21.09.2021: [Objection]

##### **1. No viable mitigation or compensation scheme has been proposed**

Greengage have put forward measures to compensate for the loss of the forester moth from the site. HE in Section 3.3 of their response of 14.9.21 state that *'appropriate conservation measures may be successful in providing new suitable habitat resources.'*

However, the measures proposed are speculative and are not evidence based, and should not be considered as a legitimate compensation strategy for the species for a number of reasons.

The examples provided do not demonstrate that habitat compensation could work. There is actually only one stated example of a potentially viable compensation scheme, from a site near Middlesbrough of an unplanned and accidental colonisation of a site. This is not a model for conserving and enhancing this critical forester population in Hertfordshire – as required by NPPF and the Local Plan. This is one example from hundreds of miles away in a very different landscape. No information is provided on this scheme to inform whether it is a valid source of information. More information must be provided on this scheme before it can even be considered as a concept for compensation. The failed Warwickshire experience is a far more valid model and should be the default position.

To address this lack of research upon which to base such an important decision, I contacted the Butterfly Conservation Officer for the Coatham site which is referred to by HE as a valid example of a viable compensation scheme. He responded and agreed that I can include his comments in this letter to you:

*'The site at Coatham came about by happy chance as opposed to a deliberate attempt to create habitat for the species. The site is Forestry Commission owned and was created about fifteen years ago. I'm guessing that the sorrel was present anyway – it's quite abundant in adjacent plantation rides – but maybe got a boost from ground preparation and it's now really abundant within the created meadow. The moth found its own way there but may well have been present nearby.*

*As a side note, although this meadow creation has clearly been of benefit to forester moth, there are a great many sites here in the north that appear suitable but which are unoccupied – clearly there are aspects of the species' habitat requirements that are unknown – therefore there's no certainty that mitigatory habitat creation will prove successful. It's also probable that although the meadow holds the bulk of the population, it is in fact part of a much larger area of occupied habitat that extends for 100s of metres into neighbouring plantations which could be functioning as a reservoir in poorer years (such as 2021, when the highest daily count we recorded as part of our monitoring was three; in good years 50-100 would be more normal).*

*Basically, the minimum area of high quality habitat (even if we knew how to precisely define that term) might be high if the species is to survive the wide annual fluctuations it seems to experience.*

*There's a lot about this moth which we don't know so protection of the threatened site in Hertfordshire would be a far more reliable way to ensure its presence is retained than to try to replicate work undertaken at Coatham which might prove less successful on different soils etc.'*

Dr. Dave Wainwright, Senior Conservation Manager Northern England, pers com, 21/09/2021

Dr Wainwright's comments underline that the conceptual compensation scheme as proposed is not viable and is not appropriate. Planting the caterpillar food plant and associate wildflower species in one location is highly unlikely to be successful. Common Sorrel is already an extremely common plant in Hertfordshire. Sheep's Sorrel is very common in acidic areas of Hertfordshire. If forester conservation were as simple as sowing a meadow with lots of Sorrel or Sheep's Sorrel in it, forester would be a common and widespread species. It isn't.

In order to find out more about the example given of the population in Buckinghamshire I contacted the Bucks county moth recorder, who confirmed that that population in Buckinghamshire is associated with ancient hay meadows. He agreed that I can include his comments in this letter to you, as below:

*' what is noticeable here in the Bucks/Oxon border area, where we still have quite a few small colonies, is that by far the majority are on ancient ridge-and-furrow meadows where the flora has remained undisturbed for centuries. I don't know what type of habitat the Maple Cross example was found in but I would have thought trying to recreate that kind of site as part of any mitigation for the species would be next to impossible.'*

D. Wilton 03/08/2021 pers com.

It should also be noted that the presence of forester supports the HMWT position that elements of priority habitat are present on the site. Forester needs these habitats to survive, as evidenced by its Bucks distribution.

The LPA cannot consider what has been put forward as a competent compensation scheme that, as HE suggest,

*'would also ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities'*

Both the county recorder for the neighbouring population and the recorder for the scheme they quote as providing a viable template, disagree with this judgement.

**Therefore, the application cannot be approved because no viable mitigation or compensation has been proposed.** The local plan is clear on this matter:

The Three Rivers Local Plan states:

*DM6: Development should result in no net loss of biodiversity value across the District as a whole.*

*a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:*

*i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and*

*ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.*

NPPF is also clear that the application must be refused:

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

**The local extinction of a Section 41 priority species is a significant harm and therefore planning permission should be refused.**

Greengage also make unsubstantiated and incorrect statements in their report which need to be addressed. They state:

*'UK Butterfly Conservation indicate that the Forester moth is often found feeding on flowers such as those of Devil's-bit Scabious, Field Scabious and Marsh Thistle, which are not recorded at Maple Cross. However, whilst it is likely that it will feed on other flowering plants, the absence of those species favoured by adults potentially reduces the value of the habitat at the proposed development site.'*

This is an extremely misleading statement. Forester moths do not favour these plants. They use them in their adult phase for nectar as they do lots of other flowering plants, but they are not a necessary part of their life cycle as the caterpillar food plant (Common Sorrel and Sheep's Sorrel) is. They are merely a component of the habitat they frequent, as referred to by the Bucks county recorder above. Indeed, the picture of the forester which has been provided as evidence for this application from the site shows the individual feeding on Yarrow, and pictures from the Chorleywood sightings show individuals on Ragwort and Harebell. They will nectar on a range of available and flowering species of plant when they are in their flight period. These may include Devil's-bit Scabious, Field Scabious and Marsh Thistle because these species are present in the habitat they depend on.

Greengage also state:

*'It should also be noted that the site had previously been mown annually, and usually towards the end of the summer months. As such Common and Sheep's Sorrel would be cut and therefore not available for the Forester moth larvae to overwinter. It has only been in the last 18 months or so that the annual mow has not been carried out which could potentially allowed Forester moth larvae to overwinter'*

This is not correct. Forester occurs almost exclusively in hay meadows in Bucks which are cut in July and then grazed – the traditional system. Foresters are adapted to cope with this management because they utilise the base of their larval food plants.

These Greengage statements shows a lack of understanding of the basic ecology of the species, which does not provide the LPA with the confidence that a mitigation or compensation strategy designed by them would be successful.

## **2. Biodiversity net gain assessment**

We welcome that HE recognise the NE biodiversity metric as the means to calculate the financial sum required to deliver biodiversity net gain.

However, we consider that the ecological compensation reasoning provided by HE would by its own evidence fail to provide a biodiversity net gain.

HE have advised TRDC that the sum of £142,800 is the correct compensation figure to compensate for the damage to the site and secure a biodiversity net gain, as required by govt policy in NPPF. They have evidenced this by reference to the NE biodiversity metric



and used generic govt unit cost estimates to justify the figure. Whilst we support the use of the metric, HMWT dispute the figures in the HE metric as set out in our previous submission, where we show that the assessment was not based upon the correct habitat assessment and categorisation.

The proposed 'compromise' approach set out in Section 4.4 and Section 4.5 is not appropriate.

HE states:

*'A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.*

Biodiversity net gain is not a compromise option to be negotiated. It is a requirement of govt planning policy. Irrespective of the consideration of the forester moth, sufficient habitat must be provided to offset the impacts of development and deliver a biodiversity net gain. This is govt planning policy:

NPPF para 1.

*1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied*

*174. Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*d) minimising impacts on and providing net gains for biodiversity*

Of the 'options' provided by HE, the only figure with legitimacy is the sum that is supported by a NE biodiversity metric and unit cost estimate (although HMWT have demonstrated that it needs correcting). The LPA has a NPPF planning obligation to achieve a biodiversity net gain. If it accepts a lower figure than is estimated by its ecological advisors as necessary to achieve that biodiversity net gain (for habitats), it has not fulfilled its planning function.

The final option suggested by HE states:

*'5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.*

HE estimate that £142,800 is required to deliver a biodiversity net gain yet are willing to advise the LPA that £54,195 is acceptable. There is no basis provided for the calculation of this very specific figure and this underlines that the option would mean that the money provided will not be enough to deliver the required biodiversity net gain which HE have calculated using the metric.

The application cannot be approved on this basis or the LPA will be knowingly passing a planning application that does not accord with govt policy.

This application must be refused.

#### 4.2.21.4 Further comments 12.10.2021: [Objection]

The applicant has agreed to pay the sum of £142,800 to address third party objections. This does not address the objections of HMWT for the following reasons.

Herts Ecology have stated that the £142,800 figure is based on costing the creation and 30 year management of 11.9 habitat units at £12,000 per unit. This is based on a generic habitat unit figure. It has no data behind it other than reflecting a govt estimate of what an average unit cost 'might' be to support their consultation on net gain in 2018.

It is not informed by any cost estimates specific to the habitats proposed to be created. Different habitats have very different creation and management costs. For example, creation and management of scrub is much less expensive than lowland meadow creation. One involves low intensity whip planting with periodic coppicing, and the other involves spraying, ploughing, reseeding with a bespoke wildflower mix and biannual cutting, clearing and disposal of cuttings. This is a vastly different unit cost which has not been considered.

The habitat that will be required to achieve this offset is good condition lowland meadow. HMWT have created the Hertfordshire Biodiversity Offsetting Cost Calculator as an offset price guide, based on the Warwickshire CC cost calculator, as adjusted for Hertfordshire. The costs for Hertfordshire have been sourced from contractors, suppliers and council parks departments. It offers a worst-case scenario cost for LPA delivery of offsets based on contractor costs.

In accordance with the Natural England Biodiversity Metric, a minimum of 0.22ha is required to create 1 habitat unit of lowland meadow from modified grassland (spray off and reseed). This means a minimum of 2.618 ha are required to achieve the 11.9 habitat units.

The cost of seed (Emorsgate EM4) to create this habitat is £2,060 per hectare, plus establishment i.e. spraying, cultivating and sowing the receptor site equates to £6,681.60. This ignores the additional costs of dramatically increasing the Common Sorrel component of the mix to provide the larval food plant habitat for the forester moth, as proposed by the applicant's ecologist (HMWT strongly dispute the viability of this proposal as set out previously, but if the LPA were to accept an offset route it would need to factor this in).

The cost of management necessary to achieve good condition, i.e. cutting, clearing and disposal, twice per year, is estimated to be £1,200 per hectare per year, for 30 years. This cost is derived from Stevenage Borough Council parks dept contractor costs, so is comparable, but could be much less if disposal costs are less, depending on the offset provider. When adjusted for inflation this cost comes to £164,640.66. This cost may be less if delivered by an offset provider but the LPA must be sure they can deliver the required offset if in receipt of money to do so under the terms of a S106 biodiversity offsetting agreement.

The cost of writing a biodiversity offset management plan is estimated to be £7,000.

This comes to £178,322.26.

However, this does not include a contingency payment to cover potential scheme failure to achieve condition; or a management and monitoring fund to pay for staff time for finding the site, collecting data, managing data, mapping, on site monitoring to assess condition, formal reporting of condition, fund administration etc. This has been calculated by Warwickshire County Council, who have been operating this process since 2012, to equate to 10% and 20% of the offset cost (which also needs to be index linked for 30 years). In this instance these figures are £31,206.40 and £62,412.79.

In total, using this biodiversity offset cost calculation methodology, the offset cost comes to £271,942.

This does not include the cost of land purchase. In Hertfordshire the current average cost of land at present is c.£20,000 per hectare. This adds another potential £52,360 to the calculation.

This calculation provides a potential cost breakdown to create the required number of lowland meadow habitat units to achieve a net gain, based on the (disputed) Herts Ecology generated biodiversity metric deficit. This cost is only indicative, but the point is that an offset payment must be bespoke and costed, rather than based on average figures. In this regard HMWT is sympathetic to the applicant's request for a written costed scheme in the email of the 8/10/2021.

None of these costs were taken into account by Herts Ecology when estimating the offset cost to be £142,800. The LPA are being advised to accept this sum to deliver a measurable biodiversity net gain, based on inaccurate average unit costs. It is not enough to deliver a real, measurable biodiversity net gain.

As stated in previous correspondence, the biodiversity metric score put forward by Herts Ecology is not correct. They have miss populated much of the habitat as 'modified grassland'. This significantly affects the baseline value of the grassland. The UK Habs definition of modified grassland is:

*G4 Modified grassland*

*Definition: Vegetation dominated by a few fast-growing grasses on fertile, neutral soils. It is frequently characterised by an abundance of Rye-grass and White Clover.*

This is an agricultural mix in origin not a semi-natural one. Modified grassland is not what has been described in their site description. What is described in their site description is a False Oat-grass dominated sward. The majority of the site is described by them as:

*Overall, a general abundance of Arrhenatherum elatius gives the impression of rough rather species-poor grassland. In several areas – particularly to the north and west, Arrhenatherum does indeed become largely dominant giving rise to rank, species-poor communities*

This community fits with the UK Habs definition for other neutral grassland sub category c5.

*G3c5 Arrhenatherum neutral grassland*

*Definition: Neutral grassland with False Oat-grass dominant*

When the metric is adjusted to reflect this the baseline increases to 24.18 habitat units.

In the comments section of the metric for line 1 and an area of other neutral grassland HE state:

*Other Neutral Grassland was chosen as a medium value distinctiveness, to reflect the mix of small areas of lowland acid grassland (g1a) with characteristic species and the areas with a species mix more characteristic of lowland meadow (G3a) and a LWS.*

Lowland meadow is a priority habitat and should be recorded as such in the metric and properly accounted for. This further elevates the habitat unit score. The metric does not allow for the destruction of priority habitat without bespoke compensation, but as a guide for the purpose of this discussion, it has been allocated good quality 'other neutral grassland' (the closest habitat to it) so that a figure can be generated. When this is done, the unit score comes to 26.70. When the 10.54 onsite habitat units are removed from the figure, this leaves a net loss of 16.16 habitat units which with a 10% net gain requires an offset of 17.78 habitat units.

Using the biodiversity metric and cost calculator, this equates to 3.91 hectares of lowland meadow, which is estimated to cost £402,075 to create and manage for 30 years. This reiterates that the sum of £142,800 is highly unlikely to be enough to deliver the NPPF requirement of a measurable net gain to biodiversity.

This compensation payment does not address the extinction of the forester moth that will result from this development. No credible mitigation and compensation scheme has been put forward for this NERC section 41 species.

Net biodiversity gain is a requirement of both local and national planning decisions. This cannot be disputed. What is disputed by the applicant is the use of the biodiversity metric as the means to prove it. If the metric is not used (correctly), subjective assessment is the result. This results in the widely different assessments of cost and quantum of habitat mitigation and compensation we see in this case. HMWT contest that because it exists and is endorsed by gov't, it should be considered the only objective mechanism to determine measurable net gain. When a new and improved mechanism of quantifying net gain exists, it makes no sense to go back to a significantly worse process, too heavily dependant on opinion rather than data. This position is supported by:

APP/M2270/W/18/3215766

Land at Common Road, Sissinghurst, Cranbrook, Kent TN17 2JR

This appeal contains the statement:

32. An empirical means of measuring whether the mitigation listed by the appellant would result in a net gain in biodiversity has not been submitted. Therefore, I cannot be certain the measures would result in a net gain, as required by Paragraph 170 of the National Planning Policy Framework.

This ruling is significant in 2 ways. Firstly, it reaffirms the need for a measurable assessment of ecological value i.e. the Natural England Biodiversity Metric, and secondly it clarifies that NPPF requires planning decisions to result in measurable net gain.

#### Summary

The metric must be repopulated correctly to generate the correct habitat unit figure.

The costs for creating and managing this habitat for 30 years must be accurately calculated for the habitat concerned, not based on unsubstantiated habitat unit averages.

There is still no legitimate forester moth compensation strategy.

The biodiversity metric is the most acceptable and objective mechanism to assess net gain.

#### 4.2.22 Maple Lodge Conservation Society: [Objection]

##### 4.2.22.1 Initial comments 09.04.2021:

We are writing to register our objections to the application for Comprehensive redevelopment to provide 2 no. single storey warehouse Class E(giii) /B2/B8 units comprising a total of 16,115 sqm including 1,882 sqm ancillary E(gi) office space, access, landscaping and associated works at Development Site, Maple Lodge, Maple Lodge Close, Maple Cross.

A summary of our objections is contained in Section 3 on page 19.

#### 1. General Context

A previous planning application (Ref: 19/1179/FUL) for this development was submitted in June 2019. Since that date the world has changed dramatically and the circumstances in which this application is submitted are very different indeed.

Humanity has had to face up to the twin threats of climate change and the continuing destruction of the natural world. These are global issues which have to be addressed locally. It is the responsibility of everyone to ensure that climate change and the environment are top of the agenda and given due weight when called upon to make decisions that affect

either. Continuing with “business as usual” is no longer an option. This has been acknowledged by Three Rivers District Council (TRDC).

TRDC’s Climate Emergency and Sustainability Strategy states:

On page 10:

***A Green Recovery from Covid-19:***

*The health and economic impact of Covid-19 has starkly demonstrated the future that awaits us if we do not act **immediately** to halt the destruction of the natural world on which we depend*

And on page 11:

*We can no longer ignore our interdependence with the environment and blindly return to destructive business-as-usual practices*

So this planning application has to be considered under a very different set of circumstances from the one that was submitted previously. It cannot be “business as usual” and assessed as if nothing has happened.

It is especially important that climate change and the environment are given due weight. Central and local government policies mandate this.

Since the previous application was submitted new legislation and policies, which were not considered in the assessment of the application nor addressed at the appeal, now have to be taken into consideration.

So what has changed?

***a) Climate change has become a material consideration in determining planning applications***

On 10th July 2019, in the case of McLennan v Medway Council, Mr Justice Lane ruled that climate change is a material consideration in determining planning applications.

After analysing legislation on the need to plan for climate change mitigation, and national and local policy on climate change, Mr Justice Lane concluded that mitigation of climate change is a legitimate planning consideration.

So, in coming to its decision, the High Court took into account not only the relevant legislation relating to climate change mitigation, but also national and local policies on climate change.

***b) TRDC has published its Climate Emergency and Sustainability Strategy***

On 8th March 2021 the TRDC Climate Emergency and Sustainability Strategy was adopted by the Policy & Resources Committee and is scheduled to be adopted by the Council on the 18th May 2021.

Following the decision of the High Court, this emerging policy must now be taken into consideration in any planning decision.

This Strategy follows on from the Annual Council Meeting held on 21st May 2019 where TRDC agreed to:

1. Declare a climate emergency ...

4. Use all planning regulations and the Local Plan to cut carbon emissions and reduce the impact on the environment

**c) A new Environment Bill is due to be published**

The Government's new Environment Bill which, among other measures, will include the requirement to use the Defra metric to calculate Biodiversity Net Gain, is due to be published during the next parliamentary session.

All these considerations must now be included as part of assessing this current planning application.

**2. Objections**

We do not believe our environmental concerns were given sufficient weight in the assessment of the previous application, despite providing comprehensive data supporting our case. As environmental issues must now be given greater weight, the evidence we provided must now be re-visited as part of the determination of this application.

As was the case with the previous application, the applicant has given little or no consideration to the potential effects of the proposed development on Maple Lodge Nature Reserve and the surrounding environment.

So we are now submitting additional new evidence to support our case. This has been subdivided under the following headings:

- 2.1 Groundwater
- 2.2 Surface Water
- 2.3 Biodiversity
- 2.4 Climate Change
- 2.5 Loss Of Amenity

**2.1 Objection - Groundwater**

In our previous submissions we raised serious concerns regarding the potential harmful effects of this proposed development on groundwater. This is because Maple Lodge Nature Reserve is a wetland reserve which is dependent upon the uninterrupted flow of uncontaminated groundwater. In our submissions dated 25th July 2019 and 22nd October 2019 we supplied the evidence to support this.

The Inspector noted this in her report:

86. ... Maple Lodge Conservation Society remain concerned that the proposal may impact on groundwater levels and thereby the water levels within the lakes

After submission of this planning application, we are even more concerned!

Maple Lodge Nature Reserve is a very important local wetland reserve which should be afforded the proper protection in any planning decisions. This can be achieved by observing, in particular, two pieces of legislation:

a) *Section 41 of the Natural Environment and Rural Communities (NERC) Act*

b) *The Water Environment (Water Framework Directive) (England and Wales) Regulations*

**a) Section 41 of the Natural Environment and Rural Communities (NERC) Act**

The reserve has two Section 41 habitats – reed beds and wet woodland – plus two lakes which support a number of Section 41 species. (This information was supplied in our submission dated 25th July 2019).

Section 41 of the NERC Act requires the Secretary of State to publish a list of habitats and species which are of principal importance for the conservation of biodiversity in England.

This list is to be used to guide decision-makers, such as local authorities, in fulfilling their duty under Section 40 of the NERC Act to have regard to the conservation of biodiversity in England when carrying out their responsibilities.

Therefore it is important that TRDC takes into account the habitat and species classifications present on the reserve and the fact that they are at risk from this proposed development.

**b) The Water Environment (Water Framework Directive) (England and Wales) Regulations**

This is often referred to simply as the Water Framework Directive (WFD). Local authorities have a statutory duty to deliver WFD objectives.

Also, as the Environment Agency's Guidance for Local Authorities - Engaging with the Water Framework Directive states on page15:

In legal terms, the WFD is a material consideration in the planning process

The WFD was not taken into consideration with the previous application even though we highlighted it in our submission dated 22nd October 2019. This is enshrined in UK Law, so it must be taken into consideration this time.

The WFD is the legislative framework which protects groundwater and surface water. It is underpinned by the "precautionary principle", which aims to preserve, protect and improve the quality of the environment, and the "polluter pays" principle, which aims to rectify environmental damage at source. Any works undertaken as part of a development that have the potential to deteriorate the status of a water body will need to be supported during the planning process with a WFD Compliance Assessment.

As has already been explained, Maple Lodge Nature Reserve is a wetland reserve which is dependent upon the uninterrupted flow of uncontaminated groundwater and, as such, it is offered protection by the WFD.

The reserve's nationally important Section 41 habitats (reed beds and wet woodland) and its two lakes constitute part of a Groundwater Dependent Terrestrial Ecosystem (GWDTE). GWDTEs are terrestrial ecosystems that are sustained by groundwater bodies and are directly dependent on the quantity (flow / level) or quality of groundwater bodies. They are specifically afforded protection by the WFD.

The WFD does this, not by protecting the wetland itself, but by protecting the groundwater on which the wetland depends. GWDTEs are a category of wetlands that, ecologically, are critically dependent upon groundwater; Maple Lodge Nature Reserve is just such a wetland. The hydrological linkage between groundwater and a wetland's ecosystem is absolutely crucial, and can easily be impacted by human activities that interfere with this linkage in any way.

Pollution, abstraction or diversion of groundwater can cause significant damage to fragile wetland ecosystems. The ecosystem at Maple Lodge Nature Reserve is extremely fragile

and can be severely affected by contamination or the slightest change in water levels. This has been compounded in recent years by the effects of climate change, when we have experienced much wetter winters and much drier summers (see Appendix A – Water Levels Graph).

If human activities have the potential to disrupt or pollute the groundwater supply to a GWDTE, then a detailed assessment of the ecosystem must be undertaken and mitigation measures proposed. This is especially important in the case of Maple Lodge Nature Reserve because, were something to happen by design or accident, the effects could be catastrophic and irreversible.

Under the terms of the WFD, the applicant is required to carry out a WFD Compliance Assessment for the GWDTE that supports the reserve and its nationally important habitats.

In the case of groundwater, the purpose of a WFD Compliance Assessment is to determine whether there are any elements of the proposed development which could have a detrimental effect on its quantity or quality. If there are, then suitable mitigation must be proposed.

This has not been done.

The applicant has not considered the effects of human intervention on groundwater as part of the reserve's supporting ecosystem nor the potential impact. Also, the applicant has not proposed any mitigation measures in the event that their activities do have damaging effects.

In a situation such as this, where an assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD, the "precautionary principle" should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that his actions will not cause harm to the GWDTE and consequently Maple Lodge Nature Reserve.

Because the applicant has not undertaken a WFD Compliance Assessment, paragraph 177 of the NPPF also applies.

### **c) NPPF Paragraph 177**

NPPF paragraph 177 states:

*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

The project is likely to have a significant effect on a site with nationally important habitats (Maple Lodge Nature Reserve) and a WFD Compliance Assessment has not been undertaken. The applicant has not shown that "the project will not adversely affect the integrity of the habitats site", and so the presumption in favour of sustainable development does not apply.

The Maple Cross Contaminated Land Assessment and DQRA – Summary Report, produced on behalf of the applicant, provides additional evidence to support our case.



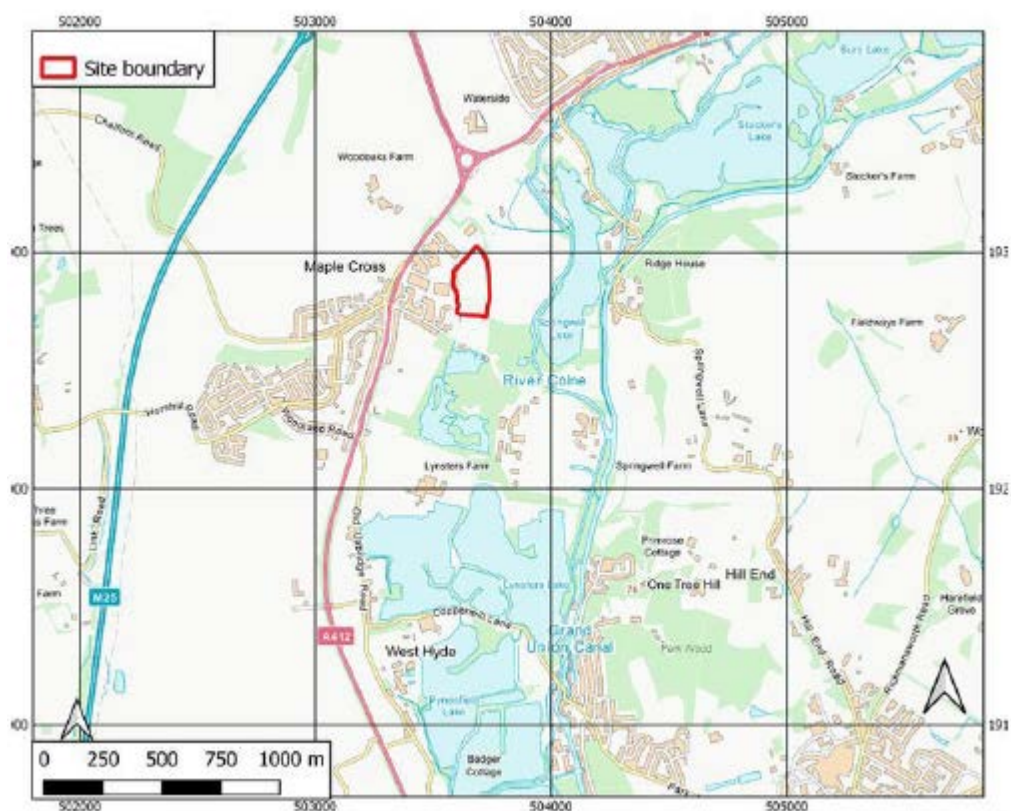
#### **d) Maple Cross Contaminated Land Assessment and DQRA – Summary Report**

The map on page 3 of the report (reproduced below) clearly shows the proximity of the proposed development site to Maple Lodge Nature Reserve.

The report notes at 5.2 that “groundwater flow in the Chalk aquifer is from the north and west towards to the east and south, with flow directions changing from eastwards to southwards across the site.”

At 5.4 the report notes that “groundwater flow in the RTD aquifer at the site is predominantly to the southwest”

As can be seen from the map, the development site is in the direct line of both flows towards Maple Lodge Nature Reserve. Therefore, any disruption or diversion of these groundwater flows could impact the reserve.



The report even cites instances when the flow will, in fact, be impeded.

#### **10 Changes In Groundwater Flow Due To Piling:**

*Piling below the site may reduce the ground permeability, as a proportion of the ground will comprise concrete piles. This may in turn reduce groundwater flow through the piled zone. The lower permeability zone will cause groundwater to ‘back-up’ behind the piling zone, creating an increased gradient across piled zone, and also creating a gradient to divert groundwater around the piled structure. There is the potential that changing flows in and around the piled zone could slow down flow towards a PWS abstraction, or slow down flows to a lake.*

*The impact of the piling zone on groundwater flow is not expected to be significant, however, calculations have been undertaken to estimate the volume of groundwater flow that would be affected.*

*The proposed pile design is for 250mm piles to be set at 2.5m spacing. The piling method is displacement piling, which will result in the materials around the pile being forced aside. The aquifer materials are therefore compressed, resulting in a loss of porosity. The pile spacing and dimension result in 10% of the volume being taken up by concrete piles. The hydraulic conductivity of the compacted zone is estimated by assuming a reduction in porosity from 30% to 20%.*

Whilst these may be seen as positive points in preventing the transmission of turbidity, they are negative points as far as the nature reserve's water supply is concerned. The flow of water through the "compacted zone" will be reduced by a third.

#### *12.2 Densification of the piling zone:*

*There will be a degree of densification of the piling zone, which has been predicted to have a negligible effect on groundwater flow to the PWS boreholes. Densification will provide protection against transport of turbidity within the piling zone, and it is therefore proposed to pile the down-gradient boundaries of the site to create a compacted zone which will mitigated against turbidity transport.*

This will be yet another barrier to the flow of water towards the reserve.

So, whilst the potential impact on the supply of drinking water has been considered, the potential impact on Maple Lodge Nature Reserve has not.

As far as Marsh Lake is concerned, there is only a range of about 80cm between the lake being full and completely drying out, so the current situation is already very parlous (see Appendix A – Water Levels Graph).

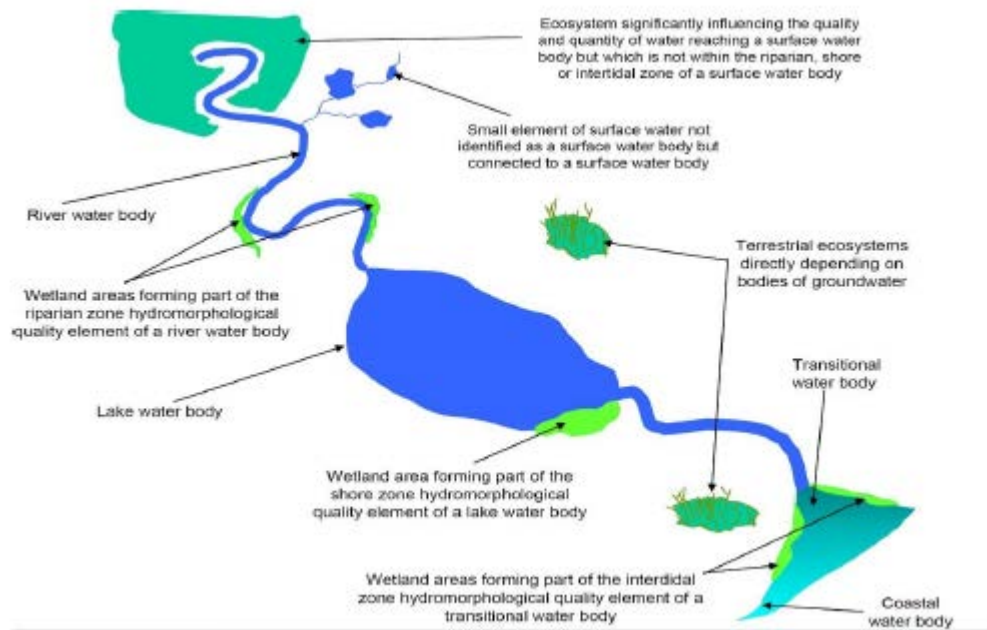
Climate change means both the reserve's lakes are already showing ever greater volatility (see Appendix A – Water Levels Graph). The reserve's nationally important habitats are very fragile and susceptible to any changes in the flow of water to the reserve. Any reduction in groundwater flow towards the reserve as a result of the applicant's activities would have an immediate and significant effect.

Also, as we mentioned in our previous submissions, driving 3,310 piles into a chalk aquifer has unpredictable consequences. In this case, the piling will be through contaminated and unstable land, meaning the outcome is even more unpredictable.

In accordance with the WFD, the applicant must prove conclusively that the GWDTE will not be harmed or damaged as a result of the development's activities. The applicant must also propose mitigation measures in the event of consequent harm or damage.

## **2.2 Objection – Surface Water**

The following schematic, taken from the EU's Guidance Document no 12 - The role of wetlands in the Water Framework Directive, page 9, shows how the ecosystem supporting a wetland is interconnected.



In the same way, the surface water on and around the proposed development site is a constituent part of the GWDTE. This includes the marshy area in the south west corner of the site and any pools of standing water on the cricket field. It also includes Maple Lodge Ditch, the water that accumulates on the Thames Water access road and Maple Lodge Marsh.

These all form part of the ecosystem which supports the reserve and must be included in any WFD Compliance Assessment. As has already been stated, under the terms of the WFD, the applicant is required to carry out a WFD Compliance Assessment for the GWDTE that supports the reserve.

In the case of surface water, the purpose of the assessment is to determine whether there are any elements of the proposed development which could have a detrimental effect on its hydro-morphology, ecology or water quality. If there are, then suitable mitigation must be proposed.

This has not been done.

The applicant has not considered the effects of human intervention on the surface water, which forms part of the reserve's supporting ecosystem, nor the potential impact. Also, the applicant has not proposed any mitigation measures in the event that their activities do have damaging effects.

As has already been said, in a situation such as this, where an assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD, the "precautionary principle" should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that his actions will not cause harm to the GWDTE and consequently Maple Lodge Nature Reserve.

Because the applicant has not undertaken a WFD Compliance Assessment, paragraph 177 of the NPPF also applies (see 2.1.c) and so the presumption in favour of sustainable development does not apply.

Reports produced on behalf of the applicant provide more evidence to support our case:

a) *Tier Flood Risk Assessment and Drainage Strategy*

b) *Greengage Preliminary Ecological Appraisal*

**a) *Tier Flood Risk Assessment and Drainage Strategy***

None of the activities proposed in this document can go ahead until a WFD Compliance Assessment has been completed. They all constitute human interference with a GWDTE and therefore, under the WFD legislation, cannot be sanctioned until this has been done.

In particular, we would like to make comments regarding the accumulation of water on the Thames Water access road. The applicant has stated that any water accumulation on the access road is due to poor road design but has produced no evidence to support this claim.

Tier Flood Risk Assessment and Drainage Strategy page 5 states:

*It is understood that the access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development. To mitigate flooding the access road will be positively drained into the proposed drainage network.*

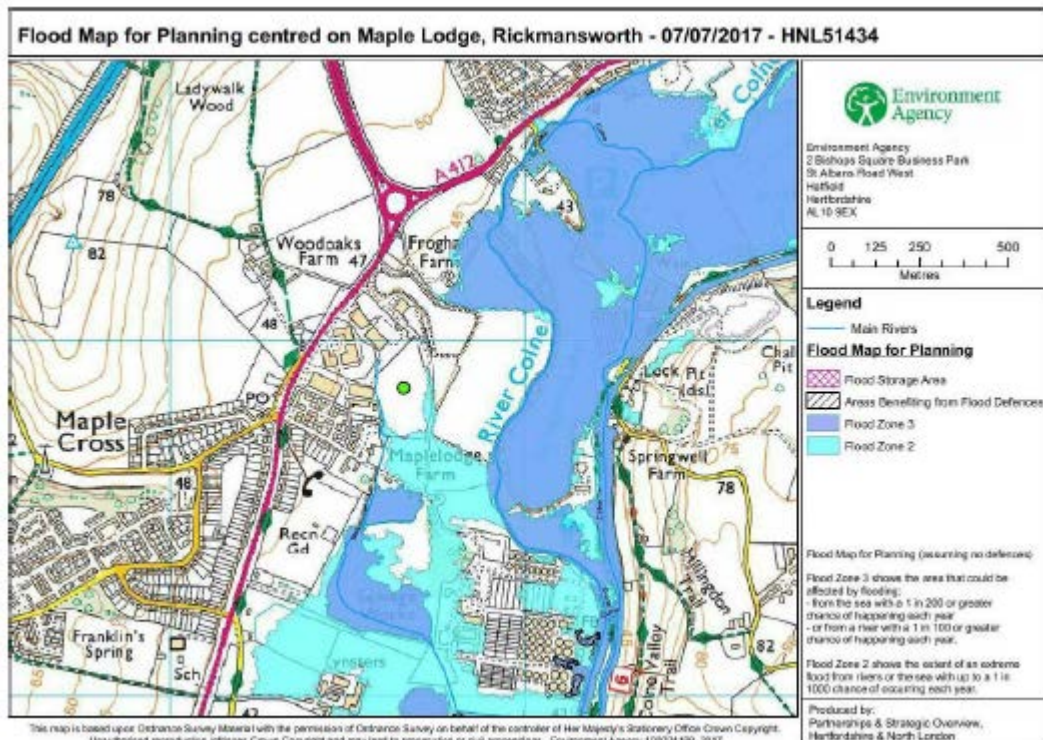
However, historical evidence shows that there was a stream / ditch running where the access road now is (see old Victorian Ordnance Survey map below) from alongside the proposed development site and past Maple Grove Farm (which is now the cricket field).

So, it is highly likely that the increasingly wet winters brought on by climate change have resulted in this stream / ditch re-emerging as groundwater levels have risen.



Also, the fact that parts of the road are classified by the Environment Agency as Flood Zone 2 (see map below) would indicate that this is because of low-lying land and high groundwater levels.





This road was permanently flooded throughout the winter months of 2020/21 (see video link below), as it was in 2019/20 and as has regularly been the case in recent years. This matches the rise in water levels recorded by Affinity Water at Maple Lodge Nature Reserve (see Appendix A – Water Levels Graph).  
Flooded access road video (filmed 1st February 2021):  
<https://youtu.be/n6E7qOeJw4Y>

Therefore, all the available evidence points to this flooding being the result of low lying land and rising groundwater levels. This is likely to get even worse as the effects of climate change are felt in the coming years.

The increasing impact of climate change means that the Environment Agency map is now becoming out of date. The road is not flooding because of poor road design; it is flooding because it is on a flood plain which is doing its job, and with climate change it is likely that this will happen ever more regularly. With more frequent wet winters bringing heavier rainfall, the whole area will be increasingly and more regularly flooded.

If the intention is to divert all this water into a drainage system, then that would be human interference with the GWDTE and would need to be included in any WFD Compliance Assessment.

**b) Greengage Preliminary Ecological Appraisal**

The Greengage Preliminary Ecological Appraisal contains more evidence of how the proposed development site is part of the wetland ecosystem which supports Maple Lodge Nature Reserve.

At 4.23 it states:

*Along the southern and eastern boundaries there are mature broadleaved trees ... There is extensive deadwood amongst these trees and they are frequently inundated. At the time of survey, standing water was present at ground level around the stems.*

At 4.24 it states:

There is a patch of marshy groundwater within the southwest corner of the field, adjacent to the wet ditch.

These are constituent parts of the GWDTE upon which Maple Lodge Nature Reserve depends.

It is clear from the Environment Agency map (see above) that the proposed development site lies within a wider wetland ecosystem which supports lakes, streams, reed beds and marshlands and as such it is afforded protection by the Water Framework Directive.

## **2.3 Objection – Biodiversity**

As far as the impact on biodiversity is concerned, we would make the following comments:

### ***a) The applicant has not calculated Biodiversity Net Gain by reference to the Defra biodiversity metric***

Biodiversity Net Gain has not been calculated objectively.

At the appeal hearing held for the previous planning application (Ref 19/1179/FUL) the representatives from TRDC's preferred ecological consultees, Herts Ecology, stated that, were they to be asked to respond again, they would use the Defra metric to calculate Biodiversity Net Gain.

This was reported in the Inspector's report as:

*99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement.*

Since the appeal they would appear to have become confident in the use of the Defra metric, because they are advising other Hertfordshire local authorities to use it.

Indeed, in their comments to Dacorum Borough Council on planning application 20/02519/MFA (dated 20th November 2020) they say:

*3. No formal proposals for demonstrating or delivering Biodiversity Net Gain (BNG) have been provided in the planning statement. Whilst this is currently not a mandatory requirement, the weight that should now be attached to this emerging Government. policy is quite clear, as is the process to demonstrate that it can be achieved (a Biodiversity metric; NE v2 is recommended). For major developments of this nature and given the impact it will have, BNG should now be considered as a necessary expectation of any such planning proposal. This is consistent with other similar development proposals in and around Hemel Hempstead.*

In a further section they say:

*5.3. ... No biodiversity metric has been presented to demonstrate the extent of 'Biodiversity Units' this would need (and so cost) or where this could be achieved*

So, they acknowledge that you cannot calculate Biodiversity Net Gain without the use of a metric.

And they conclude by saying:

12. ... Consequently, should this application be approved, as a Condition there must be a BNG proposal, supported by NE's Biodiversity Metric v2, to demonstrate the impact of the development on the site and how the necessary expectation of compensation and 10% enhancement, consistent with emerging BNG policy, can be achieved.

Also, in a letter to East Herts Council (dated 26th November 2020) Herts Ecology state:

The NPPF aims that development should deliver a biodiversity net gain. The 2020 Environment Bill gives extra weight to the importance of this outcome providing both a methodology, the NE Metric, and defining how much net gain should be achieved. Although not yet mandatory, in light of this emerging Government policy, I advise that it is reasonable for the LPA to expect that this application should demonstrate it can deliver a 10% net gain and that this should be secured by the planning process in perpetuity (for a period of 30 years).

They cannot now say that they have no confidence in the metric and that it is not required. Apart from the evidence submitted above, they would also be contradicting the commitment they made at the appeal.

### **b) TRDC Development Management Validation Checklist For Planning Applications**

This document was not referenced at the appeal when the need to use the Defra metric to calculate Biodiversity Net Gain was being discussed.

This includes the following paragraphs:

*11) Biodiversity Assessment: The Natural Environment and Rural Communities Act 2006 places a duty on Local Authorities to have regard to the conservation of biodiversity in exercising their functions, and includes the planning process. This is also reflected in the NPPF and accompanying NPPG, highlighting the need for the planning system to minimise impacts on biodiversity and provide net gains in biodiversity where possible, based on adequate ecological information. Natural England's Standing Advice on Protected Species is important and the British Standards Institution has published a detailed Code of practice for planning and development, Ref BS 42020:2013. Biodiversity Offsetting is another means of assessing impacts and delivering enhancement opportunities and may be appropriate in certain situations, which includes the DEFRA biodiversity assessment metric ...*

*Information provided by professional ecologists should be submitted with an application when it is likely to affect:*

- *Internationally and nationally designated sites*
- *European and nationally protected species*
- *Non-statutory designated sites*
- *Priority habitats and species*
- *Non-priority habitats impacted by major development and*
- *Significant populations of national or local red list or notable species*

Maple Lodge Nature Reserve, Maple Lodge Marsh and the proposed development site contain priority habitats and species (see our previous submissions dated 25th July 2019 and 22nd October 2019 plus the MLCS Survey submitted to the appeal). Also, non-priority habitats will be impacted by this proposed major development.

*Work associated with ecological surveys, impact assessments and measures for avoidance, mitigation or compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed*

development. In order to fulfil the NPPF requirement for no net loss or net gain in biodiversity, the DEFRA biodiversity metric calculation should show a net positive score.

So use of the Defra metric is part of TRDC policy. This should have been made clear at the appeal. Because it wasn't made clear, the Inspector made the following comments without being aware of its existence:

*100. I agree with Mr Dodds that the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA. However, the use of a metric is not mandatory.*

Now that we know that use of the Defra metric is included in TRDC policy for this type of planning application, it cannot be argued that it is not mandatory.

In accordance with TRDC policy, a Defra biodiversity metric assessment must be produced to quantify the ecological impact of this application.

### **c) TRDC Climate Emergency And Sustainability Strategy**

On 8th March 2021, the Three Rivers Climate Emergency and Sustainability Strategy was approved by the Policy and Resources Committee. It is scheduled to be adopted by the full Council on 18th May 2021.

In this document it states:

Page 29:

*“Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats.”*

The only way to measure a 10% net-gain in biodiversity is by reference to the Defra biodiversity metric. Therefore, in accordance with the stated Climate Emergency and Sustainability Strategy, a Defra metric assessment must be produced for this application.

### **2.4 Objection – Climate Change**

As has already been noted, as a result of the High Court ruling in July 2019, climate change mitigation is now a material consideration when making planning decisions. In coming to its decision, the High Court took into account not only the relevant legislation relating to climate change mitigation, but also national and local policies on climate change.

#### **a) TRDC Climate Emergency and Sustainability Strategy**

Based on the High Court ruling, TRDC's emerging policy on climate change now has to be taken into account when assessing this application.

On page 11 it states:

*We can no longer ignore our interdependence with the environment and blindly return to destructive business-as-usual practices ... The Council is committed to supporting a Green Recovery in Three Rivers and will ensure that the actions we implement as part of our response to the climate and ecological crises will simultaneously deliver sustainable development.*

On page 12 it includes a quote from Antonio Guterres, UN Secretary General, State of the Planet speech:



*Making peace with nature is the defining task of the 21st century. It must be the top, top priority for everyone, everywhere.*

Everyone means everyone – including local authorities and their planning officers. So climate change and environmental issues must be top priority and given appropriate weight when determining this application.

On page 28 it states:

Biodiversity

*Aim: To plan for net gains in biodiversity to address the ongoing Ecological Emergency, protect and enhance precious habitats and species, and utilise nature to build climate resilience.*

It mentions that *“Hertfordshire’s unimproved grassland and wetland habitats are in retreat, threatening 19% of species in the County with extinction”*. This is particularly relevant in this case as the proposed development site contains unimproved grassland and the development threatens a wetland.

One of the six stated objectives on biodiversity is:

Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats.

We have already shown how the submitted application does not result in a measurable 10% net gain for biodiversity, but it also fragments and damages existing habitats, especially the GWDTE described in Section 2.1. In addition it fragments and damages part of TRDC’s Green Infrastructure Corridor and one of Hertfordshire’s Key Biodiversity Areas.

Therefore, this application does not meet one of the key objectives in TRDC’s Climate Emergency and Sustainability Strategy.

### ***b) The importance of wetlands***

Maple Lodge Nature Reserve, which is threatened by this proposed development, is a valuable but fragile wetland reserve, dependent upon a GWDTE which supports two Section 41 habitats and numerous Section 41 species.

Wetlands are an important resource in fighting climate change and must be afforded every protection possible.

Page 28 of TRDC’s Climate Emergency and Sustainability Strategy notes that *“research shows that forests, wetlands and grasslands can deliver at least 30% of the emissions reductions needed by 2030 to prevent climate catastrophe.”*

WWT’s Director of Conservation, Dr James Robinson explains this on their website:

*Most of the world’s carbon is held in wetlands, yet these precious habitats are declining at an alarming rate. Over a third of wetlands have disappeared since 1970. The vital services, like climate change mitigation, provided by healthy wetlands far outweigh those of terrestrial ecosystems and we ignore their loss at our peril.*

*Wetlands act as a natural buffer against the most extreme events, soaking up heavy rainfall and ameliorating water flows to protect against the most extreme floods, as well as storing and releasing water slowly in drier times to protect against the most severe impacts of droughts.*

The other side of this argument is that a loss of a wetland will contribute to global warming, when all the carbon stored within it is released. Healthy, well-vegetated wetlands are among the most effective sinks for carbon on the planet.

TRDC's Climate Emergency and Sustainability Strategy notes on page 14 "Withey Beds – one of few remaining wetland habitats in Hertfordshire" Maple Lodge Nature Reserve is another – and that is how important it is.

As stated in the EU Guidance Document no 12 - The role of wetlands in the Water Framework Directive, page 3:

Wetlands perform regularly, and to a high capacity, a range of processes that in combination result in the delivery of significant benefits for human welfare, wildlife and for the maintenance of environmental quality

## **2.5 Objection – Loss Of Amenity**

### a) Site Location

The proposed development site is located in the middle of a nature-rich environment, an amenity that is used by many local residents and visitors, who enjoy spending time in green and tranquil surroundings.

This is something the applicant rarely mentions, preferring to focus on the degradation of the surrounding area which has been wrought by the tenants of Impact Property Development. Also, since the last application, the applicant has allowed the development site itself to be damaged, caused by heavy vehicles driving across it. This is supported by photographic evidence included in the Greengage Preliminary Ecological Appraisal and is reproduced below.

The evidence submitted so far indicates that the ecological classification of this site could be elevated to that of a Local Wildlife Site. So the applicant has already failed to meet one of the objectives of TRDC's Climate Emergency and Sustainability Strategy which states:

Require all new development in TRDC to result in a 10% net-gain for biodiversity (preferably within the District) and avoid the fragmentation, damage and isolation of existing habitats



Within 250 metres of the proposed development site there are four nature-rich locations:

- Maple Lodge Nature Reserve
- Maple Lodge Marsh
- Springwell Lake and Reed Bed (a Site of Importance for Nature Conservation)
- Woodoaks Farm

This proposed 24/7 operation would have a seriously deleterious effect on people's enjoyment of these places.

**b) NPPF Paragraph 180**

The site location combined with the negative effects of the proposed development (traffic, air, noise and light pollution) mean that it does not comply with the requirements of the NPPF.

NPPF Paragraph 180 states:

*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

*a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*

*b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*

*c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

Objections received from hundreds of residents make it clear that the tranquil areas around the development site are "prized for their recreational and amenity value".

Therefore, this planning application does not comply with NPPF paragraph 180.

It also does not comply with TRDC Management Policy DM9:

*d) ... Planning permission will not be granted for development which:*

*ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation*

Colne Valley Regional Park, in their response, also state "*we do not believe the cumulative impact of development is properly being addressed.*"

**3. Summary Of Objections**

To summarise, our main objections are as follows:

- circumstances have changed significantly since the previous application; now climate change and the environment must be given more weight as a result of new policies and legislation

- the applicant has not proved that their activities will not cause harm to an ecosystem which is afforded protection by the Water Framework Directive (WFD) and therefore the precautionary principle applies and planning permission must not be granted

- the applicant has not carried out a WFD Compliance Assessment to prove that the development will not adversely affect the integrity of nationally important habitats and therefore the presumption in favour of sustainable development does not apply

- biodiversity net gain has not been measured objectively and therefore has not been proved
- the development will damage and fragment existing habitats and therefore does not comply with TRDC's Climate Emergency and Sustainability Strategy
- the cumulative effects of traffic, air, noise and light pollution will not protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason and therefore this is contrary to the requirements of the NPPF and TRDC Policy.

#### **4. Planning Balance**

Apart from ourselves, objections to this proposed development have included responses from the following local environmental groups:

- Chiltern Society
- Colne Valley Regional Park
- Colne Valley Fisheries Consultative
- Friends Of Stockers Lake
- Herts and Middlesex Wildlife Trust
- Soil Association
- Springwell Residents and Conservation Association
- Woodoaks Farm

No environmental group has supported the application.

Also, there has been overwhelming opposition from local residents, with not a single comment in favour among the hundreds that have been received. This calls into question any claim that there is a local demand for the "hypothetical jobs" promised by this application and that employees would be walking to work.

Large warehouses such as the ones proposed are becoming increasingly automated, so the number of estimated jobs is questionable and, as there appears to be no local demand, these jobs would have to be filled by people from outside the immediate area, bringing increased traffic and pollution into Maple Cross.

The proposed development would bring little or no benefit to the residents of Maple Cross. On the contrary, it would bring traffic, air, noise and light pollution to the area 24 hours a day, 7 days a week. It would also bring increased danger to children walking to school. In fact, were this to go ahead, parents have said they would take their children to school by car, as that would be safer than allowing their children to face goods vehicles which would be crossing in front of them, on average, every 45 seconds! This would, of course, add further to the volume of traffic.

All of these points have been raised by residents in their objection letters to the Council. The Council must now listen to the residents' arguments and give them due weight in determining this application.

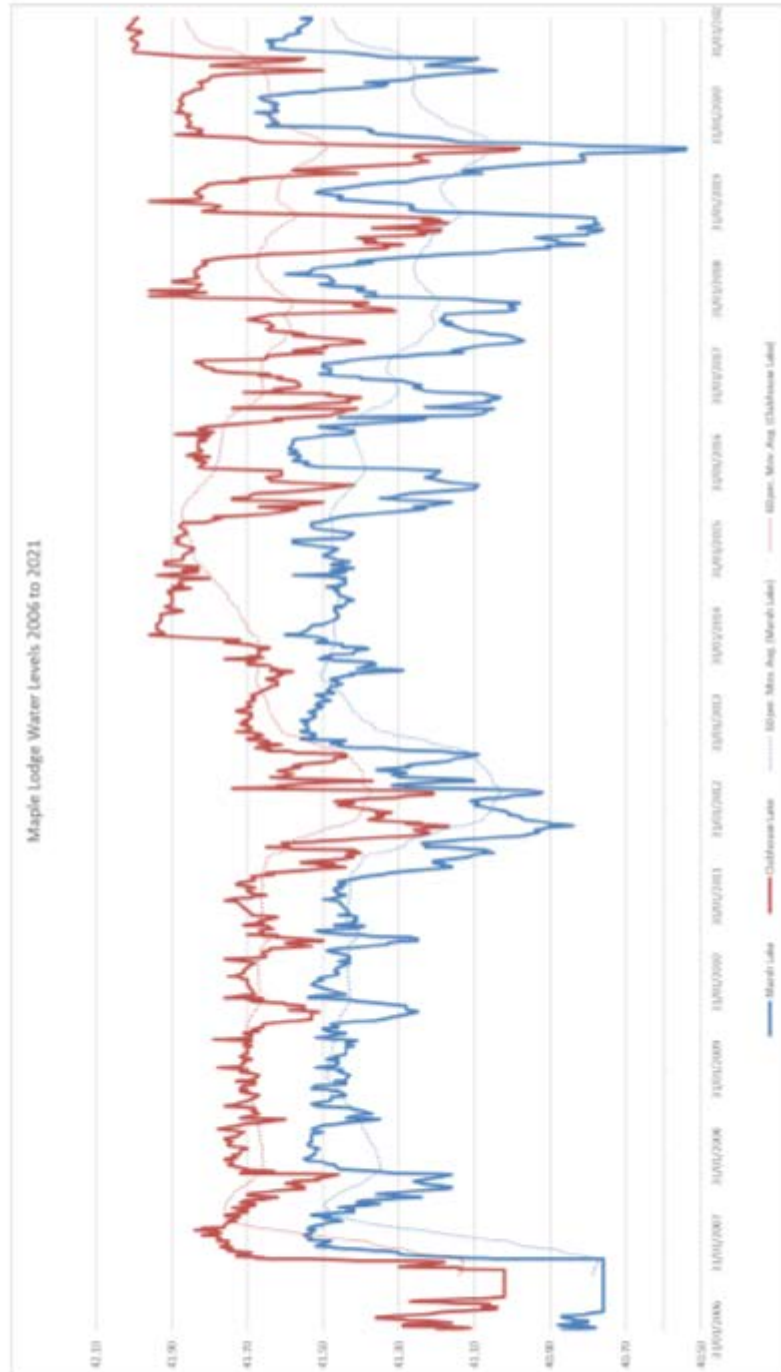
There are three strands to the NPPF's assessment of sustainability – environmental, social and economic. This development would bring proven damage and harm to the local environment and to the lives of local residents.

**So, it would appear clear in this case that the very real negative environmental and social effects outweigh any theoretical economic benefits from a speculative development promising hypothetical jobs.**

TRDC must comprehensively refuse this application.

## Appendix A – Water Levels Graph

### Appendix A – Water Levels Graph



#### 4.2.22.2 Further comments 18.04.2021:

We would like to provide further evidence to support our case, which was set out in our submission dated 9th April 2021.

We are forwarding photographs taken on the development site this week. These show trenches, recently excavated by the applicant's contractors alongside the tree line on the eastern side of the site, filling with water even though there has been no significant rain for a number of weeks.

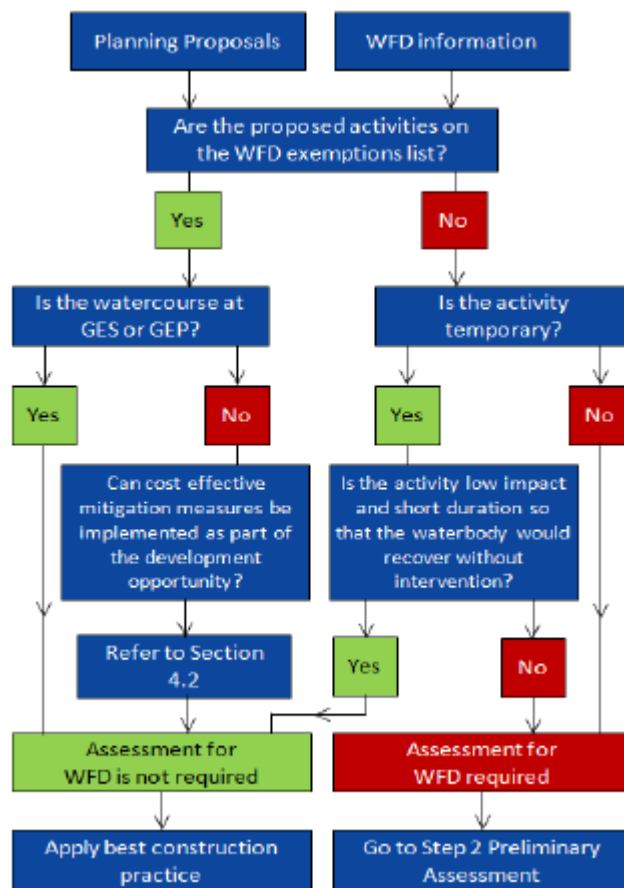
These excavations coincide with the line of the stream, which was shown on the map contained in our submission, and that is the reason why they contain water. This stream, which effectively runs just below the surface and has given rise to this high level of groundwater, is part of the wider ecosystem which supports Maple Lodge Nature Reserve as a wetland, as we described in our previous submission.

[Photographs provided]

This third photograph clearly shows how the groundwater is close to the surface, but this is not surprising as this site functions as part of a flood plain.

As explained in our previous submission, because this groundwater supports a groundwater-dependent wetland reserve (Maple Lodge Nature Reserve), it is afforded protection under the Water Framework Directive (WFD) and should not be subject to human interference without a WFD Assessment being undertaken.

The need for such an assessment is explained by the following flowchart reproduced from page 39 of the Hertfordshire Water Framework Directive Guidance document:



So, in this case the answers are:

Are the proposed activities on the WFD exemptions list? – No  
 (See Hertfordshire Water Framework Directive Guidance, Table 9-3, page 42)

Is the activity temporary? – No

Therefore a WFD Assessment is required.

This has not been done and therefore this application must be refused.

As part of a WFD Assessment it would be necessary to assess the likely impact on the nationally important, Section 41 priority habitats and species at Maple Lodge Nature Reserve.

Clearly, this has not been done and therefore the presumption in favour of sustainable development does not apply. This is in accordance with NPPF paragraph 177 which states:

*177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

Finally, the Hertfordshire Framework Directive Guidance, page 21, states:

*LPA's - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives.*

A WFD Assessment has not been undertaken and, since this development would compromise the WFD objectives, TRDC must ensure that permission is not granted

#### 4.2.22.3 Further comments 26.04.2021:

An email from Maple Lodge Conservation Society was received. In summary, this sets out that the Conservation Society have been advised by Members that use of the Defra Metric to calculate Biodiversity Net Gain will be a requirement of the new Local Plan and therefore must be regarded as emerging policy. Reference is also made to other applications in Hertfordshire where Herefordshire Ecology have recommended refusal on the basis that this Metric was not used.

#### 4.2.22.4 Further comments 29.04.2021:

I am writing in response to the letter you received from Hertfordshire Ecology, dated 13th April 2021.

Our comments are as follows:

##### 1. Hertfordshire Ecology Comments

We are pleased that Hertfordshire Ecology have recognised the threats to Maple Lodge Nature Reserve and the fragile nature of its nationally important habitats. We have repeatedly made this case which Hertfordshire Ecology have now acknowledged as follows:

*4.1 In respect of indirect impacts, the Maple Lodge Nature Reserve to the south is important as a wetland reserve and any significant impact on water supply into the reserve by the development would negatively impact on its ecology. It is clearly already vulnerable, with naturally shallow waterbodies and recent periods of low water if not drying out. This supply*

*... is considered to be dependant mainly on groundwater flow, as raised before and during the Hearing.*

And also:

*4.3 ... it is the long-term behaviour of the groundwater through and around the site in respect of the proposals which should be sufficiently understood, to demonstrate that the groundwater flow reaching the reserve is not reduced or otherwise unacceptably affected by the proposals*

This is what could be lost: [Picture provided]

## 2. Maple Cross Contaminated Land Assessment And DQRA Summary Report

Hertfordshire Ecology mention the Maple Cross Contaminated Land Assessment and DQRA Summary Report which has been produced by the applicant. However, this report does not address all the risks facing the nature reserve as a result of the applicant's activities. As far as the flow of groundwater is concerned, the focus of this report was limited to:

*Understanding groundwater flow in Chalk from the site to three local PWS boreholes, and how the three PWS boreholes influence each other and the site*

In fact, this report actually confirms a negative impact on the reserve and we repeat here some of the case we put forward in our submission dated 9th April 2021:

### *10 Changes In Groundwater Flow Due To Piling:*

*Piling below the site may reduce the ground permeability, as a proportion of the ground will comprise concrete piles. This may in turn reduce groundwater flow through the piled zone. The lower permeability zone will cause groundwater to 'back-up' behind the piling zone, creating an increased gradient across piled zone, and also creating a gradient to divert groundwater around the piled structure. There is the potential that changing flows in and around the piled zone could slow down flow towards a PWS abstraction, or slow down flows to a lake.*

*The impact of the piling zone on groundwater flow is not expected to be significant, however, calculations have been undertaken to estimate the volume of groundwater flow that would be affected.*

The proposed pile design is for 250mm piles to be set at 2.5m spacing. The piling method is displacement piling, which will result in the materials around the pile being forced aside. The aquifer materials are therefore compressed, resulting in a loss of porosity. The pile spacing and dimension result in 10% of the volume being taken up by concrete piles. The hydraulic conductivity of the compacted zone is estimated by assuming a reduction in porosity from 30% to 20%.

Whilst these may be seen as positive points in preventing the transmission of turbidity, they are negative points as far as the nature reserve's water supply is concerned. The flow of water through the "compacted zone" will be reduced by a third.

### *12.2 Densification of the piling zone:*

*There will be a degree of densification of the piling zone, which has been predicted to have a negligible effect on groundwater flow to the PWS boreholes. Densification will provide protection against transport of turbidity within the piling zone, and it is therefore proposed to pile the down-gradient boundaries of the site to create a compacted zone which will mitigated against turbidity transport.*



This will be yet another barrier to the flow of water towards the reserve.

So, the Maple Cross Contaminated Land Assessment and DQRA Summary Report does not address the risks facing the reserve and actually confirms that the applicant's activities will have a detrimental effect on the reserve, which is very sensitive to any changes in groundwater flow.

### 3. Maple Lodge Nature Reserve - Risk Assessment And NPPF

At no time, either with the previous application or this current one, has the applicant undertaken a risk assessment of the likely impact of their activities on Maple Lodge Nature Reserve, in particular the two Section 41 habitats (wet woodland and reed bed) and the numerous Section 41 species.

We have provided comprehensive information about this which the applicant has chosen to ignore. Therefore, NPPF paragraph 177 applies:

*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

The project is likely to have a significant effect on a site with nationally important habitats and an appropriate assessment has not been undertaken. The applicant has not shown that "the project will not adversely affect the integrity of the habitats site", and so the presumption in favour of sustainable development does not apply.

### 4. Water Framework Directive (WFD)

As explained in our previous submissions, Maple Lodge Nature Reserve and the ecosystem that supports it are afforded protection under the terms of the Water Framework Directive (WFD).

For the avoidance of any doubt, we will state the main points of our case relating to the WFD here.

#### 4.1 Under UK Law, TRDC Has A Statutory Duty To Observe The Objectives Of The Water Framework Directive

This duty is not contingent on advice from other parties such as the Environment Agency or the Lead Local Flood Authority. It is an absolute statutory duty upon TRDC as a public body, as specified in WFD Regulation 33:

*River basin management plans: duties on public bodies*

*The Secretary of State, the Welsh Ministers, the Agency, NRW and each public body must, in exercising their functions so far as affecting a river basin district, have regard to—*

*(a) the river basin management plan for that district as approved under Regulation 31, and  
(b) any supplementary plan prepared under Regulation 32.*

The river basin management plans are the mechanism through which the WFD objectives are delivered. The Thames River Basin Management Plan, which applies in this case, clearly spells out the responsibilities of local government in meeting the WFD objectives.

#### 4.2 The Water Framework Directive Is A Material Consideration In Planning

The Environment Agency's Guidance for Local Authorities - Engaging with the Water Framework Directive states on page 15:

*In legal terms, the WFD is a material consideration in the planning process.*

#### 4.3 A WFD Compliance Assessment Is Required

In order to meet the environmental objectives listed in WFD Regulation 13, a WFD Compliance Assessment is required.

This is because the WFD requires any proposed developments with the potential to impact the water environment to carry out a risk assessment to demonstrate that the proposed development will not result in deterioration of status or prevent the water body from meeting the WFD objectives.

In the judgement passed by the Court of Justice of the European Union (CJEU) for Case C-461/13 (Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland), known as the Bund case, it was established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

#### 4.4 The Precautionary Principle Applies

The WFD is underpinned by the precautionary principle. It is also one of the key environmental principles included in the new Environment Bill.

In a situation such as this, where a WFD Compliance Assessment has not been done and the outcome is unknown or may cause harm then, in accordance with the WFD and the new Environment Bill, the “precautionary principle” should be invoked. This means that planning permission should not be granted until it is established that there is no unacceptable impact on the environment.

#### 4.5 The WFD Compliance Assessment Cannot Be Conditioned

The precautionary principle also means that if the WFD Compliance Assessment were to show that the outcome of the applicant’s activities is unknown or would cause harm, then the development could not go ahead.

Therefore, the WFD Compliance Assessment cannot be attached as a condition to a planning permission.

To attach a condition for a WFD Compliance Assessment would be to attach a condition which could contradict the permission being granted. So, if the development not going ahead is a possible outcome (and the Maple Cross Contaminated Land Assessment and DQRA Summary Report has already shown that there will be negative impacts on the reserve), then planning permission should be refused.

#### 4.6 TRDC Has A Duty To Protect Maple Lodge Nature Reserve

Maple Lodge Nature Reserve and its Section 41 habitats are covered by WFD Regulation 10 (2):

(b) an area or body of water for the time being designated or otherwise identified as requiring special protection under any EU instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such an EU instrument, including, in particular—

(iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

As has been explained above, TRDC has a statutory duty to observe the WFD objectives.

It therefore has a duty to protect the reserve. This duty is acknowledged in TRDC's Development Management Policies Local Development Document, paragraph 8.2:

*Authorities are obliged to conserve and enhance wildlife and landscape under the Natural Environment and Rural Communities Act 2006, the Water Framework Directive and the Natural Environment White Paper.*

#### 4.7 The Burden Of Proof Lies With The Applicant

The precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that their actions will not cause harm to the ecosystem and consequently Maple Lodge Nature Reserve.

This is exactly the same ruling that applies to HS2, as documented in the HS2 Water Framework Directive compliance assessment review, page 14:

*The legal Interpretation of this element of the ruling (the Bund case) is that it results in a 'precautionary principle' approach being required, whereby if there is a risk of deterioration from a scheme element, the burden of proof that it does not cause deterioration falls on HS2 as the promoter of the scheme*

The applicant has not proved that their activities will not harm Maple Lodge Nature Reserve. In fact, they have actually confirmed that their activities will have a negative impact.

Also, the applicant has not proposed any mitigation measures in the event that their activities have damaging effects. This is a required output from any WFD Compliance Assessment.

So, the applicant has to propose mitigation measures for the scenario where, whether by accident or design, their activities result in the loss of Maple Lodge Nature Reserve's Section 41 habitats and species.

This has not been done.

#### 4.8 Planning Permission Must Be Refused

The Hertfordshire Framework Directive Guidance, page 21, states:

*LPAs - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives*

Clearly, this development could compromise the WFD objectives, as has already been proved by the evidence submitted by the applicant.

Also, because a WFD Compliance Assessment has not been undertaken, the proposed development does not comply with NPPF paragraph 170:

*170. Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

It also does not comply with TRDC Policy DM6:

*g) Watercourses*

*Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan.*

Purely from the WFD perspective, TRDC must refuse this application because:

- it does not comply with the Water Framework Directive
- the precautionary principle applies
- it does not comply with NPPF paragraph 170
- it does not comply with TRDC Policy DM6

#### 4.2.22.5 Further comments 17.05.2021:

I am writing in response to the letter you received from Hertfordshire LLFA, dated 21st April 2021.

In particular, I am seeking clarification on Hertfordshire LLFA's position regarding the flooding of the eastern side of the development site and the access road.

Tier Flood Risk Assessment and Drainage Strategy page 5 states:

It is understood that the access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development.

As the eastern side of the development site floods as well as the access road, the cause is not "poor road design".

This flooding is caused because of high groundwater levels and a stream which runs along the eastern side of the site. That is why the road remains continuously flooded during the winter months, even after days / weeks without any rain. This is likely to get even worse with the effects of climate change.

In consideration of the previous application for this site (19/1179/FUL), this flooding was referred to as surface water.

In their letter dated 18th October 2019, Tier Consult stated:

The current proposal of draining the road into the site shall remedy this situation.

This was accepted by Hertfordshire LLFA in their letter dated 1st November 2019:

The applicant has stated how the road drainage will be part of the surface water drainage for the site. This point has therefore been addressed.

This was re-confirmed by Tier Consult in their letter dated 6th November 2019:

We believe the scheme will provide betterment to the area and will remove the flooding issue that occurs on the private road which is due to poor and inadequate design of the highway drainage. This is to be replaced and the surface water taken into our scheme.

And re-stated this time in the Tier Flood Risk Assessment and Drainage Strategy page 5:

To mitigate flooding the access road will be positively drained into the proposed drainage network.

So, please will you ask Hertfordshire LLFA for answers to the following questions:

1. Will the SuDS capacity which has been proposed for this development be sufficient to cope with water that is being drained directly from the high groundwater table?

2. As the development site is “next to and linked to nature conservation sites”, will Hertfordshire LLFA be requesting an environmental appraisal prior to consenting to any drainage scheme (in accordance with Hertfordshire County Council Guidance Notes for applying for Ordinary Watercourse Land Drainage Consent)?

3. As Maple Lodge Nature Reserve is a Groundwater Dependent Terrestrial Ecosystem (GWDTE), and human activities such as implementing drainage systems have the potential to disrupt or pollute the groundwater supply to a GWDTE, will Hertfordshire LLFA be requesting a WFD Compliance Assessment, in accordance with the Water Framework Directive?

(This would also be necessary in order to comply with TRDC Policy DM6:

g) Watercourses

Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan).

#### 4.2.22.6 Further comments 16.08.2021:

We have noted the contents of the Hydrogeological Impact Assessment and GQRA, recently submitted by the applicant. This report does not provide satisfactory answers to any of the points we raised in our letter dated 29th April 2021, especially under Section 4 – Water Framework Directive.

We are therefore obliged to re-state our case with reference not only to the submitted report, but also to UK Law and the Planning Inspectorate’s guidance on these matters. This includes reiterating points we have made previously. We have sought legal advice before submitting this letter.

Our comments are as follows:

#### **1. Water Framework Directive (WFD)**

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, which implement Directive 2000/60/EC of the European Parliament and of the Council (the Water Framework Directive), continue to apply post-Brexit.

One of the overall objectives of the WFD is:

- to enhance the status and prevent further deterioration of surface water bodies, groundwater bodies and their ecosystems

In this instance, Clubhouse Lake and Marsh Lake are surface water bodies; the reserve’s two UK BAP Priority Habitats, reed bed and wet woodland, are Groundwater Dependent Terrestrial Ecosystems (GWDTE). They are protected by UK Law, namely WFD Regulation 10 (2):

(b) an area or body of water for the time being designated or otherwise identified as requiring special protection under any EU instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such an EU instrument, including, in particular—

(iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

## **2. TRDC Statutory Duty**

TRDC has a statutory duty to observe the objectives of the WFD.

This duty is not contingent on advice from other parties such as the Environment Agency or the Lead Local Flood Authority. It is an absolute statutory duty upon TRDC as a public body, as specified in WFD Regulation 33:

### ***River basin management plans: duties on public bodies***

*The Secretary of State, the Welsh Ministers, the Agency, NRW and each public body must, in exercising their functions so far as affecting a river basin district, have regard to—*  
*(a) the river basin management plan for that district as approved under Regulation 31, and*  
*(b) any supplementary plan prepared under Regulation 32.*

The river basin management plans are the mechanism through which the WFD objectives are delivered. The Thames River Basin Management Plan, which applies in this case, clearly spells out the responsibilities of local government in meeting the WFD objectives.

TRDC must ensure that any decisions that are made meet the environmental objectives listed in WFD Regulation 13. To enable such a decision to be made requires the completion of a WFD Compliance Assessment.

This is because the WFD requires any proposed developments with the potential to impact the water environment to carry out a risk assessment to demonstrate that the proposed development will not result in deterioration of status or prevent the water body from meeting the WFD objectives.

In the judgement passed by the Court of Justice of the European Union (CJEU) for Case C-461/13 (Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland), known as the Bund case, it was established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

## **3. Planning Inspectorate Guidance**

The Planning Inspectorate's Advice Note 18 – The Water Framework Directive gives very clear guidance on this matter.

First of all, it clarifies the responsibilities of public bodies under WFD Regulation 33:

'Having regard to' river basin management plans includes taking account of and considering the environmental objectives and summary of measures contained within the plan when exercising any functions and the effects of those functions on the objectives and measures within the plan

It also states:

... the Inspectorate supports the preparation and submission of separate WFD assessment reports by applicants, which clearly explain how the requirements of WFD have been met

The applicant's Hydrogeological Impact Assessment and GQRA report does not do this. In fact, the report contains just one passing reference to the WFD. It does not "clearly explain how the requirements of the WFD have been met".

The Hydrogeological Impact Assessment and GQRA report submitted by the applicant is not a WFD Compliance Assessment.

Therefore, TRDC is not in a position to confirm that this planning application meets the WFD objectives. On this particular point the legal guidance we have received is as follows:

Per Recital 11 of the WFD and without any evidence to demonstrate compliance, the precautionary and prevention principles apply. The WFD is underpinned by the precautionary and prevention principles of Article 191 of the Treaty on the Functioning of the European Union. It is also one of the key environmental principles enshrined in the new Environment Bill.

So, in this situation, where a WFD Compliance Assessment has not been completed and the outcome is unknown or may cause harm then, in accordance with the WFD the precautionary and prevention principles should be invoked and planning permission should not be granted.

#### **4. Hydrogeological Impact Assessment and GQRA**

##### **4.1 This report is not a WFD Compliance Assessment**

It does not refer to the WFD objectives at all. It does not state how or if the applicant will meet them. It is therefore unlikely that this report would withstand judicial examination. It is a "generic" quantitative risk analysis. This is not sufficient to meet WFD objectives.

On page 11 it states:

The lakes in the valley of the River Colne are not listed as water bodies in the Environment Agency catchment planning website; these are not thought to be monitored as Water Framework Directive water bodies.

Whether the lakes are listed or monitored is immaterial. No developments should cause the deterioration of the status of any watercourse or waterbody. All water bodies are covered by the Water Framework Directive. This is because they are all interconnected. In many cases it is the larger water bodies that have a defined WFD status and many smaller tributaries are not individually designated. However, all smaller water bodies eventually discharge into larger water bodies which eventually discharge into the sea. In this particular case water flows from Maple Lodge Nature Reserve via the outlet stream into the River Colne, which is a tributary of the River Thames.

The applicant has not carried out any of the practical surveys required in order to complete a WFD Compliance Assessment.

The Hydrogeological Impact Assessment and GQRA is a desk-based study which makes use of a conceptual model.

##### **4.2 The report misrepresents Maple Lodge Nature Reserve**

Information about Maple Lodge Nature Reserve is widely and publicly available via the Maple Lodge Conservation Society (MLCS) website and elsewhere. However, the applicant has chosen to present very limited and selective information about the reserve.

On page 3 the report quotes from the MLCS website:

Membership of the Society is open to anyone with an interest in conservation and natural history. Before joining the Society all prospective members must be given a guided tour of the reserve by a Committee Member or authorised guide. This can be arranged by contacting the Society.

After completing the tour the prospective member can join the Society by paying the annual subscription and completing the appropriate membership forms. This includes reading and agreeing to abide by the Rules of the Society.

However, it doesn't include other quotes from the website such as:

The Society organises open days and other events throughout the year when members of the public can visit the reserve.

Or:

Anyone who wishes to visit the reserve must make an appointment with the Society for a guided tour.

Or:

The Society welcomes visits from interested groups and individuals.

Access is managed for safety reasons, but anyone can visit the reserve. Indeed hundreds of people do just that and enjoy visits to the reserve every year. These include members and their guests, individual visitors, and groups including wildlife associations, U3A groups, schools, scout and guide associations and disability organisations.

It is a reserve that is treasured by the local community, as has been borne out by the number of objections to this planning application. As shown by the examples listed above, the following statement from page 26 of the report is an example of being economical with the truth:

The Maple Lodge nature reserve is not a registered Local Nature Reserve but a privately owned site with access to members only

Maple Lodge Nature Reserve is a designated Local Wildlife Site, a fact acknowledged by the applicant on page 10 of their own ecology report, but not mentioned in this report. So, one has to ask the question why, in this particular report, the applicant has chosen to misrepresent the reserve in this way? It certainly raises questions about the objectivity and reliability of this report.

#### **4.3 The report is selective in its choice of evidence**

As part of their assessment of conditions at Maple Lodge Nature Reserve, the applicant relies on a report produced by Mott McDonald on behalf of Affinity Water, which documents the results of surveys carried out 8,9 and 10 years ago.

This information is not up-to-date and the applicant has been selective in the choice of evidence presented. Several examples of this are given below.



#### i) Clubhouse Lake

The report quotes from the Mott McDonald report:

Clubhouse is a very shallow lake (c. 0.5 m) where prolonged low water level periods have naturally caused pools to dry and habitat use has succeeded as it would naturally to more marsh land with some terrestrial species such as willowherbs present in the lake margins. Water levels are thought to be influenced by fluctuations in the level in the River Colne, via flow in the RTD aquifer. Algae was characteristic of the lake in the survey periods, and macrophyte communities were sparse.

However, it does not quote other relevant passages from the Mott McDonald report such as:

Amongst other lakes, Clubhouse Lake ranges in the middle to higher ranks of abundance of macroinvertebrates. Diversity index calculations shows that Clubhouse Lake has one of the highest macroinvertebrate diversities in autumn and a relatively high diversity score in spring. Equitability is moderately high in both seasons indicating there is a good evenness in the families present.

And:

... there are fish present and species include common roach, common rudd and pike

Surveys of macroinvertebrates and fish should be included in any WFD Assessment. Neither have been done.

Also, the Mott McDonald surveys were undertaken during particularly dry years, when Clubhouse Lake levels were low. Since 2014 the average lake level has increased to c 1.0 m with it being as high as c 1.3 m in winter, with some areas of the lake even deeper.

#### ii) Marsh Lake

The report quotes from the Mott McDonald report:

Marsh Lake is a very shallow lake, mostly less than 0.2 m at the time of the survey. The shallow depth of the lake can contribute to the suspended solids concentration in the water column. The lake has been completely dry on occasions. Marsh Lake is likely to be fed by flow through the superficial deposits from the River Colne and upwelling from the Chalk aquifer as well as direct rainfall. Marsh Lake supported a species-poor community of macrophytes with only duckweed recorded in the open water. Marginal vegetation has been colonised by marsh and terrestrial vegetation such as the wet willow woodland.

When quoting "Marsh Lake supported a species-poor community of macrophytes with only duckweed recorded in the open water" the applicant has omitted the continuation of the sentence which says:

.... but with a richer shoreline community, spaced out between heavily shaded banks with dense vegetation.

The report also does not include the results of the shoreline surveys which include:

In 2012, nine macrophyte species were recorded; great willowherb, orange balsam, common duckweed, water mint, water forget-me-not, water figwort, bittersweet, branched bur-reed and blue water-speedwell

And:

In 2013, ten species were recorded, with water mint the most frequent. Similarly to Clubhouse Lake, the passages covering macroinvertebrates and fish have not been quoted which include:

Amongst other lakes, Marsh Lake is very similar to Clubhouse and ranks middle to high in abundance of macroinvertebrate families present compared to the other lakes in the study. The diversity index is much higher in spring than in autumn.

And:

... there are fish present, including common roach, common rudd and pike

Also, as with Clubhouse Lake, the surveys were undertaken during particularly dry years, when Marsh Lake levels were low. Since 2014 the average lake level has been between c 0.5 m and c 1.0 m, with some areas of the lake even deeper.

Furthermore, on page 7 the report states:

It can be inferred that the ground levels in the area of Marsh Lake and in the areas of solid ground have been artificially raised by landfilling, having previously been excavated for gravel extraction

Although there are certain areas of the reserve that have been used for landfilling, Marsh Lake itself remains as excavated; indeed the original sweeps of the excavation are clearly visible when the waters are low, as raised shingle banks in crescent shaped sweeps. There has been no landfilling there at all and it remains as an open lake.

Figure 2-7, historic landfill and sewage sludge beds, is inaccurate. It shows Marsh Lake as a landfill site. It never has been.

### iii) Bird Species

The report quotes from page 165 of the Mott McDonald report:

The lakes support a reasonable number of birds species, using the lakes as resting or loafing site, as conditions are not ideal for resident flocks of birds. However, both lakes were undergoing natural succession from a water body to a terrestrial habitat. The 2014 report stated that 'if drying up continues as is probable with the natural low water levels at Maple Lodge Nature Reserve, the birds will become far more exposed to predation, and more marsh-type and terrestrial species will colonise, which may alter the bird community structure away from waterfowl and wetland birds.'

The reference to "natural succession from a water body to a terrestrial habitat" might be true, were it not for the fact that the reserve, like many other similar reserves in the UK, is a wetland managed to ensure that this does not happen. The report does not mention this blatantly obvious fact.

Nor does it comment on the HS2 funded reed bed project which we described in our previous submission dated 25th July 2019. This project improved the site as a wetland reserve by extending the reed bed, as shown below:

[photo provided in comment]

Most strikingly, the report does not quote any of the three important passages which appear on page 163 of the Mott McDonald report, headed "Bird community". These include the extracts quoted below.

### Breeding Birds

... a total of twenty-six bird species were recorded across three years, fifteen of which are key bird species to Clubhouse and Marsh Lakes as they are key species to lowland open waters, according to the guidelines for selection of SSSI (Nature Conservancy Council, 1989); mute swan, gadwall, shoveler, teal, pochard, tufted duck, little grebe, great crested grebe, grey heron, water rail, common tern, kingfisher, sedge warbler, reed warbler and reed bunting. The kingfisher is also listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and Annex 1 of the Birds Directive (see Section G.1.5.2 in Appendix G for graphs and overview of bird counts and diversity at Clubhouse Lake). Although not confirmed as breeding, the kingfishers were seen as a pair. The common tern is also a species under Annex 1 on the Birds Directive list.

And:

#### Wintering Birds

A total of eleven bird species were recorded across the three years in Maple Lodge Nature Reserve, eight of which are key species of lowland open waters according to the guidelines for selection of SSSI (Nature Conservancy Council, 1989); mute swan, gadwall, shoveler, teal, tufted duck, little grebe, grey heron and cetti's warbler. Cetti's warbler is also listed under Schedule 1 of the Wildlife and Countryside Act 1981.

And:

#### SSSI Criteria Assessment

Although not part of the SSSI, the same scoring system for selection of SSSIs using bird survey data was used for Maple Lodge Nature Reserve, in order for the non-SSSI lakes to be comparable to those in the SSSI during this study. The scoring system provides a threshold for lowland open waters (31) and the score for Maple Lodge Nature Reserve (Clubhouse and Marsh Lake) was always below the threshold with the exception of the 2011 breeding season when surveys were completed by the Maple Lodge Conservation Society and the score was 39.5 (See Table G.5, Appendix G)

The exclusion of all this information raises even more questions about the objectivity and reliability of the report, especially as the applicant's own ecology report says about the reserve:

It is an important site for birds with over 125 species recorded, several of which are at least County Red List species

So, the question has to be asked why, in this particular report, the applicant has chosen to misrepresent the reserve's habitats and species?

For an independent view we have included with this letter a brief assessment of the reserve made by the Conservation Manager of Herts & Middlesex Wildlife Trust in their submission to the Charity Commission in July 2013 (see Appendix B to this letter).

#### **4.4 The report does not refer to any of the evidence supplied by Maple Lodge Conservation Society**

The applicant has relied solely on information contained within the Mott McDonald report, which contains the summary results of surveys conducted 8, 9 and 10 years ago.

The report does not refer to any of the up-to-date evidence already supplied by MLCS in our submission dated 25th July 2019. We have provided comprehensive evidence on the UK BAP habitats and water-dependent UK BAP species present on site, but the applicant

makes no reference to these at all, even though these GWDTEs are key receptors and WFD protected areas.

Nor has the applicant referred to the wealth of species information which is publicly available via the MLCS Biodiversity Records website. This includes the annual species reports produced by MLCS over the last 38 years.

As a result, the habitat and species information contained within the report is not up-to-date and incomplete. The report must therefore be regarded as unreliable.

#### **4.5 The applicant has not proved that their activities will not have an adverse effect on Maple Lodge Nature Reserve**

The application of the precautionary principle states that the burden of proof for the proposition that an action is not harmful falls on those instigating that action – in this case the applicant. Therefore, the applicant has to prove that their actions will not cause harm to Maple Lodge Nature Reserve.

The applicant has not proved that their activities will not harm Maple Lodge Nature Reserve. In fact, they have actually confirmed for a second time that their activities will have an adverse impact on the reserve.

Firstly, on page 15, the applicant has confirmed that groundwater flows from the development site to both of the reserve's lakes:

Groundwater flow in the Chalk aquifer is predominantly to the southeast, however there is some indication that flows below the site are to the south. It has been conservatively assumed that flow is to the south and that flow from the site contributes to discharge from the Chalk aquifer into Clubhouse and Marsh Lakes

(This contradicts the statement made in Tier Consult's letter to the Environment Agency dated 19th May 2021 which states "groundwater does not flow directly from the site to the nature reserve").

Secondly, on page 17, the applicant has confirmed that the piling will have an adverse effect on the reserve:

The total reduction in flow through the piling zone is estimated as 45 m<sup>3</sup>/d or 4% of the total inflow to the lake

The findings of the report are based on a desk study and a conceptual model. The figures used for the conceptual model are not supported by actual readings.

For example, the report states on page 16:

The inputs to the lake system in the Maple Lodge nature reserve have been estimated as an average of 1079 m<sup>3</sup>/d, with 75% derived from the stream, 11% from direct rainfall and 14% from groundwater flow.

And:

Groundwater flowing through the chalk below the site which is conservatively estimated to discharge to the lakes. The proportion that flows through the piling zone is estimated as 31 m<sup>3</sup>/d or 3% of the total input to the lake.

No measurements have been taken to support these percentages. No actual data has been presented to confirm the volumes of water received by the reserve from respectively the

input stream, direct rainfall or groundwater flow. Nor have any measurements been taken for the output stream from the reserve.

On this particular issue Affinity Water's Water Resources Specialist has advised:

I can understand how the 1079m<sup>3</sup>/d has been calculated but since the major factor here is the stream inlet (calculated as 806m<sup>3</sup>/d from the total inflow of 1079m<sup>3</sup>/d) I would expect some direct river flow gauging in that stream to verify the theoretical calculations that carry quite a bit of uncertainty. Overall the 1079m<sup>3</sup>/d as a value does not seem odd but it would be good to have a direct measurement of the stream inflow close to Clubhouse Lake to verify. Equally, I would expect to see the outflow calculations too (including stream outflow), to make sure that the water balance is complete (i.e. water in equals water out plus lake storage).

In our submission dated 22nd October 2019 we supplied actual readings which showed that input to the reserve was predominantly from groundwater and not the stream (see Appendix A to this letter).

The first readings were taken when Marsh Lake was dry at 40.54; there were still pools of water in Clubhouse Lake. Before any significant input was received from the stream the level in Clubhouse Lake had risen by 0.46 metres and in Marsh Lake by 0.42 metres. This is just below 50% of the average lake levels. It is therefore highly unlikely that 75% of the input to the lakes is from the stream, as estimated by the applicant.

Also, the sluice from Clubhouse Lake into Marsh Lake does not start to flow until about 41.55 with all the boards out. In the readings we have supplied Clubhouse Lake was still below this at 41.44 by the time the stream started flowing, so all of the increase in Marsh Lake had to be from groundwater and rainfall.

This is supported by the Mott McDonald report which makes no mention of the stream when it states:

Water level evidence suggests that Marsh Lake is likely to be fed by flow through the superficial deposits from the River Colne and upwelling from the chalk aquifer as well as direct rainfall. However, it is likely that Marsh Lake receives a greater contribution from the chalk aquifer via upwelling through the superficial deposits.

This is significant because the reserve's GWDTEs and UK BAP habitats, wet woodland and reed bed, are sustained by Marsh Lake. In other words the reserve's priority habitats and species are dependent upon the flow of groundwater to Marsh Lake and not the stream as is claimed by the applicant.

Therefore, the applicant's initial estimates and all subsequent percentages derived from them are open to question and should not be used as a basis for any decisions.

#### **4.6 The applicant's risk assessment is not robust**

i) The applicant's risk assessment is qualified and subjective

When summarising the risks to the reserve none of the statements are definitive. This is to be expected because these conclusions are based on initial estimates rather than actual readings / measurements.

For example, on page 18 of the report it states:

The risks to the Maple Lodge nature reserve are considered to be negligible for the following reasons:

- The contribution of flow into the lakes from the piling zone is thought to be a very small proportion (<6%) of the total inflow into the lake
- The amount of flow diverted around the piling zone due to densification is a still smaller proportion (<3%) of the total inflow into the lake
- The groundwater diverted around the piling zone is not lost but will take a slightly longer route around the piling zone, and will likely regain a similar flow path
- The impact on groundwater and lake levels is considered to be negligible, particularly considering that the western boundary stream, Chalk aquifer, RTD aquifer and River Colne all make contributions to groundwater and lake levels at the reserve
- The natural variability of groundwater and lake levels is likely to be far higher than any change resulting from piling at the site, hence no impact is likely to be observed due to the development
- Any impact on groundwater levels is likely to be local to the site, owing to the high permeability of the surrounding hydrogeological regime

Also, all the percentages quoted above are open to question as explained in Section 4.5.

The Planning Inspectorate's guidance on this states:

The WFD assessment should assess the risk of impact to the water bodies, having regard to its specific elements and objectives. The assessment should identify if there is a risk of deterioration of any WFD element as a result of the Proposed Development and any conclusion reached should be supported by a robust evidence base.

Clearly, the applicant's conclusions are not "supported by a robust evidence base".

On this particular point the legal guidance we have received is as follows:

On the basis of the precautionary and prevention principles, TRDC may take pre-emptive action to protect the environment where there is scientific uncertainty or incomplete evidence as to the potential of the proposed project to adversely impact the water environment. The applicant has not provided certain evidence there will be no adverse impact on the reserve. Therefore, TRDC can and should refuse permission.

ii) The applicant's risk assessment does not include the potential severity of impact

The Risk Assessment on pages 23 and 24 of the report does not include the potential severity of impact for each of the potential risks. It merely lists potential impact and then makes a subjective assessment – e.g. negligible risk.

For example, in the case of the risk "GWTDE – reduced lake and groundwater levels impacting habitats", it doesn't state that the potential severity of impact could be catastrophic.

This is not in accordance with the risk assessment guidance supplied by the Environment Agency which states:

You need to take into account the sensitivity of the receptor, the timescale necessary for the assessment and the consequences of any impact within the risk assessment

- identify the consequences
- estimate the magnitude of the consequences ('impacts')
- estimate the probability of the consequences ('impacts')
- evaluate the significance of the risk

This has not been done.

#### **4.7 The applicant has not proposed sufficient mitigation / compensation**

None of the mitigation measures listed on page 25 of the report provide an answer to the over-riding question:

If, as a result of their activities, any of Maple Lodge Nature Reserve's UK BAP habitats or species are lost or harmed, what mitigation / compensation is being proposed by the applicant?

The applicant has not proposed any mitigation measures in the event that their activities have damaging effects. This is a required output from any WFD Compliance Assessment. Our legal guidance on this is as follows:

According to Recital 11, the WFD is underpinned by not only the precautionary and prevention principles but also the "polluter pays principle".

Therefore, the applicant must propose mitigation measures for the scenario where, whether by accident or design, their activities result in the loss of or harm to Maple Lodge Nature Reserve's Section 41 habitats and species.

The Planning Inspectorate guidance states:

Mitigation relied upon to demonstrate compliance ... must be appropriately defined and sufficiently secured

If specific mitigation is required in order to ensure no risk of deterioration of water bodies as a result of the project, this should be clearly identified in the WFD assessment

It will also be necessary for the assessment to clearly explain the type of mechanisms to be put in place in order to secure the delivery of such mitigation, including ... legally binding methods and timescales for delivery.

This has not been done.

In their letter to the Environment Agency, dated 19th May 2021, Tier Consult have suggested that this can be covered by a planning condition:

...we consider that the proposed work will be sufficient to demonstrate that any further concerns that you have can be dealt with by detailed mitigation design, as a condition of planning

This is not in accordance with Planning Inspectorate guidance. This guidance is in place because, by not following it, TRDC would be placing itself in a position where it could not confirm that the development would comply with the WFD objectives, which, as the local planning authority, it is legally bound to do.

It would also mean TRDC granting permission to an application which could subsequently be proved to be undeliverable.

Therefore, detailed mitigation design cannot be conditioned and "the type of mechanisms to be put in place in order to secure the delivery of such mitigation, including ... legally binding methods and timescales for delivery" must be clearly explained before planning permission is granted.

## **5. Environment Agency Condition**

The Environment Agency has recommended the following condition:

## Condition 2 – Groundwater Levels

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 170 of the National Planning Policy Framework.

Unfortunately, this condition will not “ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies”.

If, as a result of their activities, the applicant diverts water away from the reserve, then it would cause irreversible harm. Monitoring the fact that it has happened will not prevent or reverse the situation. The damage will already have been done. Driving 3,310 piles into chalk, a notoriously unpredictable medium, means that this is a real possibility.

The purpose of conducting a WFD assessment is to determine whether there are any elements of a proposed development which could have a detrimental effect on the current quality of any waterbody. Any development must have no permanent, unmitigated effects which cause any deterioration in the current status of any surface-water or groundwater body.

In this case, not only has the applicant failed to prove that there will be no detrimental effect, detriment to groundwater flow is actually a predicted outcome! Both the Maple Cross Contaminated Land Assessment / DQRA Summary Report and the Hydrogeological Impact Assessment / GQRA Report have confirmed that there will be adverse impacts on the reserve.

Applying this condition will not resolve this issue.

If TRDC accepted the condition recommended by the Environment Agency, then the council would be failing in its statutory duty to observe the objectives of the WFD. The Bund case (see Section 2), established that decision makers must refuse consent to developments that would result in non-compliance with the WFD.

Agreeing to the condition suggested by the Environment Agency would result in non-compliance with the WFD and therefore this condition cannot be used by TRDC.

## **6. NPPF**

NPPF paragraph 177 states:

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.



The applicant has not undertaken an appropriate assessment of the likely impact of their activities on Maple Lodge Nature Reserve, in particular the two Section 41 habitats (wet woodland and reed bed) and the numerous Section 41 species.

The applicant has not shown that the “project will not adversely affect the integrity of the habitats site”, and so the presumption in favour of sustainable development does not apply.

## **7. TRDC Development Management Policies**

As has been explained above, TRDC has a statutory duty to observe the WFD objectives.

This is supported by TRDC Policy DM6:

### **g) Watercourses**

Any development adjacent to, over or in a watercourse needs to take into account consideration of the Water Framework Directive requirements and opportunities outlined in the Thames River Basin Management Plan.

It therefore has a duty to protect the reserve. This duty is acknowledged in TRDC’s Development Management Policies Local Development Document, paragraph 8.2:

Authorities are obliged to conserve and enhance wildlife and landscape under the Natural Environment and Rural Communities Act 2006, the Water Framework Directive and the Natural Environment White Paper.

Also TRDC Policy DM6 states:

a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area

In this case the need for a development does not “outweigh the need to safeguard the biodiversity” of Maple Lodge Nature Reserve and the adverse effects cannot “be satisfactorily minimised through mitigation and compensation measures”.

Therefore, in accordance with this policy, the development should not be permitted.

## **8. Concluding Remarks**

The Hertfordshire Framework Directive Guidance, page 21, states:

LPAs - must consider the requirements of the WFD when determining planning applications for development. As a statutory consultee in the planning process, the Environment Agency as the Competent Authority will raise objections if they feel that the objectives of the WFD have the potential to be compromised by development proposals; however, the LPA has overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives

Clearly, this development would compromise the WFD objectives, as has been proved by the evidence submitted by the applicant now on two separate occasions.

In any case, TRDC does not have the information necessary to ensure that the proposed development will not compromise the WFD objectives. This is because the Hydrogeological Impact Report and GQRA submitted by the applicant:

- is not a WFD Compliance Assessment
- relies on data that is incomplete and not up-to-date
- is selective in its choice of evidence
- relies on a conceptual model that is not supported by robust data
- does not properly consider the severity of impacts
- does not include secured mitigation for the potential loss of or harm to Maple Lodge Nature Reserve's Section 41 habitats and species

In addition, the proposed development does not comply with NPPF paragraph 170:

170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

Therefore, TRDC must refuse this application because:

- it does not comply with the Water Framework Directive
- the precautionary and prevention principles apply
- it does not comply with NPPF paragraphs 170 and 177
- it does not comply with TRDC Policy DM6

[Appendices also provided]

#### 4.2.22.7 Further comments 24.09.2021:

I am writing in response to the letter you received from Herts Ecology, dated 14th September 2021, which was the latest in a number of discussions / communications relating to the calculation of Biodiversity Net Gain and the use of the DEFRA metric.

From these we have concerns about the advice being given to TRDC by Herts Ecology.

Section 54 sub-section (4) of the Planning and Compulsory Purchase Act 2004 imposes a duty on a statutory consultee to give a "substantive response" to any consultation.

Article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines a "substantive response" as:

- a) states that the consultee has no comment to make
- b) states that, on the basis of the information available, the consultee is content with the development proposed
- c) refers the consultor to current standing advice by the consultee on the subject of the consultation or
- d) provides advice to the consultor

In this case neither a) or b) apply and Herts Ecology has not, to our knowledge, referred to c) any current standing advice.

So what is d) the advice being provided by Herts Ecology to the consultant, TRDC?

Let us consider the sequence of events:

i) Appeal Decision

In the appeal decision for the previous planning application (19/1179/FUL) the Inspector reported Herts Ecology's position as follows:

99. Hertfordshire Ecology explained that while it generally supported the use of the DEFRA metric, at the time at which the application was assessed they were not confident of it, and therefore it was assessed based on their expert judgement. The financial contribution represents the cost of recreating a 2.26 hectare area of species rich grassland and maintaining it for 25 years. This represents 2/3 of the area of that lost at the appeal site plus 10% additional to represent a net gain.

As we were present at the appeal, we can also confirm that Herts Ecology stated that, were they to be asked to respond again, they would use the DEFRA metric to calculate Biodiversity Net Gain

In our letter dated 9th April 2021 we referred to two occasions subsequent to the appeal (Dacorum Borough Council – 20th November 2020; East Herts District Council – 26<sup>th</sup> November 2020) where Herts Ecology advised other Hertfordshire councils to use the DEFRA metric, indicating that they were now confident in using it.

Apart from the evidence we submitted previously, Herts Ecology would also be contradicting the commitment they made at the appeal were they not to use the DEFRA metric for this planning application.

ii) Herts Ecology Letter – 13th April 2021

As far as this planning application is concerned, in their letter dated 13th April 2021, Herts Ecology state:

2.4 Use of the current version of the NE Biodiversity Metric would enable this to be fully measurable, as recognised by the Inspector. Since our original comments, use of the updated Biodiversity Metric – published in July 2019 - has become more frequent where major development is proposed. Its use as part of the mandatory BNG proposal is needed to enable measured assessments of net gain to be determined, as outlined in the January 2020 Environment Bill. Nevertheless, whilst the expectations of the government have now become clearer, the Bill has not yet been enacted and the use of the metric or Biodiversity Net Gain is still not currently a mandatory requirement of planning law, also recognised by the Inspector at the Hearing.

So, Herts Ecology are acknowledging that use of the DEFRA metric “is needed to enable measured assessments of net gain to be determined”.

They mention that the use of the metric is still not currently a mandatory requirement of planning law, but this has not prevented Herts Ecology recommending its use to other councils within Hertfordshire, as evidenced above.

Also, more recently, within Three Rivers District itself, in the case of the planning application for Killingdown Farm (20/1881/FUL), Herts Ecology accepted the use of the DEFRA metric:

However sufficient offsetting has been proposed (mainly for species-rich grassland, replacement orchard planting, and planting new hedgerows) to compensate for this loss

and achieve measurable biodiversity net gain. This is demonstrated in the submitted Biodiversity Metric 2.0 spreadsheet and I have no reason to doubt this uplift can be delivered

As the Case Officer responsible for the Killingdown Farm planning application, you will be aware of this.

iii) Herts Ecology Letter – 14th September 2021

In this letter Herts Ecology confirm their statement at the appeal for planning application 19/1179/FUL:

Furthermore, in the interim period between the HE response to the original application and the appeal, as outlined above, the Government published its updated metric and the Environment Bill, giving greater weight to the need for developments to demonstrate a measured BNG of at least 10%. To acknowledge this, at the appeal, Hertfordshire Ecology stated that if a similar application was now made, we would advise it was reasonable for the local authority to expect that a 10% net gain be calculated using the NE metric V2.

They also confirm that the use of the DEFRA metric is needed to demonstrate measurable net gain:

However, BNG continues to emerge and over the timescale of the applications has been further endorsed by Govt guidance and intention. This has also changed the weight that could be given to delivering BNG and how, to the extent that use of the metric would now be needed to demonstrate that measurable net gain can be achieved

However, having clearly stated their position, Herts Ecology then present TRDC with 5 options, 4 of which are not in accord with their recommended advice to use the DEFRA metric to calculate Biodiversity Net Gain, as defined in their letter to TRDC dated 26th July 2021:

5 ...At the Inquiry this was also acknowledged by Herts Ecology, given the published Metric V2 update and the weight clearly given to its use and BNG by Govt in the Environment Bill. If providing comments again in 2020, HE stated they would advise using the NE metric to assess BNG impacts and requirements

6. Provision of a Biodiversity Metric is not a requirement of planning law; NE state this will not become law until autumn 2023 when the TCPA is amended. However, we consider that for a site of this size, nature and impacts, it is now reasonable for the LPA to consider assessing the current application proposals using a Biodiversity Metric, consistent with the comments made at the Inquiry.

7. Consequently, HE have completed the Biodiversity Metric V2 to provide a view on this. Therefore, of the following five options, only one (Option 3) is actually consistent with previous statements made by Herts Ecology:

1. Maintain the existing original contribution, as originally calculated to create a suitable area of compensation grassland which could also be potentially suitable for the Forester. This would be £17,725

2. To ensure that BNG and the Forester are properly considered independently using the previous approach (technically BNG doesn't directly assess species conservation requirements), increase the contribution along the same lines for an additional area for grassland. This would essentially double the area of compensation grassland. This would be £34,410

3. Apply the NEV2 metric calculation to determine BNG requirements. This is based upon new evidence of grassland value confirmed by HE survey and the increased emphasis placed upon using the metric to determine BNG, despite the current lack of planning requirement. This should, by default, provide for a larger grassland compensation, which should also substantially benefit the moth's colonising and establishment potential. This would be £142,800.

4. A compromise between any one of these. Such a figure cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies. However, whilst each of these could be justified on their own merits, the latest approach to BNG by using a metric would be more consistent with the current expectation of Govt should BNG be applied to this new proposal.

5. To reflect the changing circumstances, it is suggested a compromise between 2 (the agreed proposed figure) and 3 (the metric V2 figure) may be appropriate. This would amount to £54,195.

Options 4 and 5 are contradictory. Having said in Option 4 that a compromise figure "cannot be directly justified as it simply reflects the weight attached to a planning judgement which takes into consideration the different contributions currently assessed through different methodologies", Herts Ecology then suggest precisely that in Option 5 – a compromise "taking into consideration the different contributions currently assessed through different methodologies"!

Also, in Option 5, how is £54,195 a compromise between £34,410 and £142,800? This figure is stated without any reasoned explanation.

We believe that the advice being given here is unclear and, at times, contradictory. As the advice given by a statutory consultee will be used to inform a local authority's decision, then it needs to be clear and well-reasoned. This was emphasised in a recent High Court ruling (Swainsthorpe Parish Council v Norfolk County Council) when the judge stated:

If the product of consultation has to be conscientiously taken into account and given great weight, it follows that it must be an intelligible response which is adequately reasoned, bearing in mind its purpose of providing advice to the decision maker, and informing its decision.

Only Herts Ecology's Option 3 would comply with this ruling.

So we agree with Herts & Middlesex Wildlife Trust who have stated in their letter dated 21st September 2021:

Of the 'options' provided by HE, the only figure with legitimacy is the sum that is supported by a NE biodiversity metric and unit cost estimate (although HMWT have demonstrated that it needs correcting).

#### 4.2.23 Natural England: [No objection]

(Officer comment: Natural England were consulted on the application following the identification of the Forester Moth on site).

Thank you for your consultation on the above dated 22 July 2021 which was received by Natural England on 22 July 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

## **SUMMARY OF NATURAL ENGLAND'S ADVICE**

### **NO OBJECTION**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

### **Sites of Special Scientific Interest**

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

### **Sites of Special Scientific Interest Impact Risk Zones**

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

## **Annex - Generic advice on natural environment impacts and opportunities**

### **Sites of Special Scientific Interest (SSSIs)**

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal.

### **Biodiversity duty**

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

### **Protected Species**

Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this

advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### **Local sites and priority habitats and species**

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. The list of priority habitats and species can be found [here](#)<sup>2</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

### **Ancient woodland, ancient and veteran trees**

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

### **Protected landscapes**

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The National Planning Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

### **Landscape**

Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

### **Best and most versatile agricultural land and soils**

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance. Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

*Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.*

### **Access and Recreation**

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### **Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

### **Environmental enhancement**

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.



- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
  - Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
  - Planting additional street trees.
  - Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

### 4.3 Public/Neighbour Consultation

4.3.1 Number consulted: 145

4.3.2 No of responses received: 323 objections summarised at 4.3.5 below (including from Maple Cross & West Hyde Residents Association, see 4.3.6; Soil Association Land Trust, see 4.3.7; Springwell Residents and Conservation Association, see 4.3.8; North Harrow Waltonians Angling Society, see 4.3.9; The Chiltern Society, see 4.3.10; The Colne Valley Fisheries, see 4.3.11)

4.3.3 Joint letter from residents of Maple Lodge Close (inclusive of Maple Lodge Farm House) raising concerns with regards to the original comments from the Environmental Health Officer in relation to noise impacts.

4.3.4 Site Notice: Expired 07.04.2021      Press notice: Expired 11.04.2021

4.3.5 Summary of Responses:

NB. All comments received can be viewed in full online. The below represents a summary of the objections received. In considering an application regard can only be had to material planning considerations.

The effect of noise on residents is more complex than report suggests.

Dispute methodology and findings of noise report.

If permitted, residents will have to endure permanent and unremitting noise nuisance.

Noise pollution both from construction and end use.

24/7 operation 365 days a year.

TRDC has not challenged the need for 24/7 operation.

Modelling assumptions have not been challenged.

Impacts of noise creep not considered.

Environmental Health Officers comments are not clear regarding which conditions he refers to.

Light pollution.

Buried asbestos disturbance with consequential danger.

Land contamination.

Impact on air quality.

Every vehicle movement will raise local air pollution.

Air pollution is biggest threat.  
Negative impact on human health, physical and mental.  
Impact of omissions from diesel vans omitted.  
Impact of pollution as a result of underestimated traffic increase.  
There should be restrictions on what can be stored on site.  
Fails to comply with World Health Organisation guidelines.  
Reference to case where air pollution exposure was identified as cause of death.

Maple Lodge Nature Reserve (MLNR) is of national importance.  
Proposal would have devastating impact on MLNR.  
The action of channelling excess water away from application site will reduce flow of groundwater to MLNR, adversely affect the reserve, lakes and ecosystems that support it and causing devastating damage and contamination.  
Detrimental impact on wildlife.  
Impact of piling on water course.  
Impact on Springwell Lake and Nature Reserve and other surrounding lakes.  
Local chalk streams are of global importance.  
No biodiversity net gain demonstrated.  
Appropriate metric has not been used to calculate net gain.  
Impacts of noise on wildlife.  
Environmental impact on local farm.  
Contrary to NERC Act so must be refused.  
Site is habitat for rare Forester Moth which was thought to be extinct in Hertfordshire.  
Discovery of Forester Moth carries with it legal obligation.  
This is an important conservation area.  
Development would lead to extinction of Forester Moth.

Ground water impact.  
Surface water impact.  
Would permanently damage drinking water, causing significant harm to health.  
Risk to area supplying 3.2 million people with drinking water.  
Contrary to Water Framework Directive so must be refused. Applicant needs to prove conclusively that they will not harm or damage the MLNR.  
Consideration of interaction between HS2 and application site unaddressed – who would take the blame?  
Impact of piling close to main sewer.  
Supporting document 'Water and Drainage related issues 21/0573/FUL' submitted.  
Access road frequently floods (picture provided).

Adverse effect on local people.  
Maple Cross is a residential area and this is inappropriate.  
There are a number of schools in the area that would be adversely affected.  
Development will tower over neighbours in Longmore Close.  
Will result in overshadowing and loss of light.  
Loss of tree leaves in winter will make development more overbearing.  
Negative impact on local businesses already struggling due to COVID.  
Would be unable to work from home.  
Would be unable to open windows.  
Trees are deciduous so cannot be relied upon to provide screening at all times.  
Additional trees could be retained to provide screening.  
Recent COVID pandemic has highlighted the importance of outdoor nature areas and these should be protected.  
Too close to residential properties.

Traffic pollution.  
Existing area is gridlocked.  
Discrepancies in data provided, including in relation to number of vehicle trips.

Roads cannot cope with additional traffic.  
Vehicles and HGVs could not be stopped from using Maple Lodge Close.  
Highways safety concerns, including in relation to concerns regarding safety of children who walk to local schools.  
Hertfordshire Safer Routes to School not being considered.  
Children walking to school could not avoid site.  
Need to consider impact of HS2 and other development traffic.  
If M25 is blocked this is the alternative route used.  
1000+ extra trips a day would be catastrophic.  
Impact of construction traffic.  
Error in projections which do not include consideration of adjacent hotel.  
Error in projections which do not include consideration of Thames Water site adjacent.  
Interruption to HGVs transporting sewerage to/from adjacent site.  
Reports fail to consider impact on Maple Lodge Close  
Application fails to consider impact on pedestrians including school children.  
Supporting document 'Traffic and its implications' submitted.  
Local residents know what the roads/traffic is like and their views should not be ignored.

Climate Emergency declared.  
Contrary to TRDC sustainability policies.  
This is not a sustainable development and should not be approved.

Should be re-designated as Green Belt and protected.  
Negative impact on adjacent Green Belt.  
Eyesore/blight landscape.  
Not appropriate development within the Colne Valley.  
Would lead to destruction of Colne Valley.  
There are brownfield sites which would be more appropriate for development.

No need for warehouses in Maple Cross.  
Listen to local residents who do not want or need this development.  
Economic arguments not clear cut.  
Development poor fit with TRDC workforce.  
Does not address likely COVID employment issues within TRDC.  
Supporting document 'Economic Arguments – does this development deliver what the District needs?' submitted.  
What is driving the application?  
Would not provide employment for local people.  
There is no local support for the development, the jobs are not wanted.  
Employees would be traveling from outside area.  
Salaries could not support TRDC cost of living.  
Modern warehouses are automated so hardly any jobs will be created.  
SW Herts are in need of allotments, this site might resolve that issue.

Development needs to be considered in relation to other developments such as HS2.  
Application form and documents are misleading and inaccurate and should not have been accepted.  
This is all about maximum profit for the developer with no consideration of residents.  
Many objections raised at time of previous application were disregarded by the planning office and not dealt with appropriately.  
TRDC failed to properly defend previous appeal.  
There is no clear plan for Maple Cross.  
Similar proposal was previously rejected.  
Reference to redevelopment in description is misleading as site not previously developed.

#### 4.3.6 Maple Cross & West Hyde Residents Association: [Objection]

#### 4.3.6.1 OBJECTION:

Much has changed since the developers previous submission that resulted in being rejected solely on ground water, with many issues being overlooked by the Planning Inspector as residents did not have the financial ability to seek bona fide consultants reports. The topic of noise, as an example, was finally balanced in favour of the developers for this very reason. Our request to TRDC for independent reports on Noise, Air Quality and a Traffic count was rejected.

COVID-19 has made the Government recognise that we cannot continue as before and have set out how they will be 'building back better, supporting green jobs, and accelerating our path to net zero'. Conflicting with this the developers will build two unsustainable mechanised warehouses that support very few jobs and accelerate increases in pollution.

The United Nations Climate Change Conference will be held in the UK in November and the Environment Bill will be passed ahead of it. The Bill seeks to improve the natural environment and Local Authorities will be duty bound to reduce pollution levels - measure PM2.5 et al. TRDC have published their Climate Emergency and Sustainability Strategy 2021 – 2026 in response to their 2019 declaration. These strategies prove that we need sustainable green jobs that do not threaten the natural environment in the way that these prospective warehouses do.

#### **Summary of Points raised in this Objection:**

- 1) Maple Lodge Close: not addressed by applicant, new directive HCC**
- 2) Foul sewage: not addressed by applicant**
- 3) Traffic: Herts CC 6 5 trips/Applicant 1890 New evidence - unregulated pollution & groundbreaking ruling**
- 4) Flooding of Thames Water Access Road: not addressed by applicant**
- 5) Cumulative Effects: Woodoaks Farm, Springwell Lake**
- 6) Environmental Effects: not addressed by applicant**
- 7) Economic: developer has exaggerated these benefits**
- 8) Noise**

#### **1) Maple Lodge Close:**

Herts County Council Highways have imposed the following Condition:

*1. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:*

*a. Details and further information as to how vehicle access to the development site would be restricted from using Maple Lodge Close.*

*Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).*

*Note: Maple Lodge Close is a private road and not highway maintainable at public expense. Therefore HCC as Highway Authority would not be able to enforce any restrictions over the private access road. Nevertheless the Highway Authority would encourage and support restrictions for vehicles to the development site via this route through the whole construction period and use as the route is not considered to be acceptable to support the level and type of vehicles associated with the proposed use.*

The developer previously stated they 'would instruct everyone that they were not to use Maple Lodge Close' this is an unrealistic answer. Either the developers or TRDC need to

negotiate a resolution with Thames Water since signage and verbal instruction will not prove to be effective – Thames Water vehicles are testament to this. Should this development be sanctioned all warehouse traffic (HGV's; LGV's; etc) must be prevented from using Maple Lodge Close for reasons of safety – narrow road/pavement.

## 2) Foul Sewage:

*'The planning application proposal sets out that FOUL WATER will NOT be discharged to the public network and as such Thames Water has no objection. Should the applicant subsequently seek a connection to discharge Foul Waters to the public network in the future, we would consider this to be a material change to the application details, which would require an amendment to the application and we would need to review our position.'*

This position needs to be reviewed as within the Tier report:

*'The site will discharge foul water to the public foul sewer to the north of the site'.*

Thus they do not have the required permission to discharge foul waters to the public network.

## 3) Traffic / Air Quality:

The Cole Jarman report is the sole document showing total vehicle numbers and travel times:



Schedule

19/0333/SCH1

### Predicted Traffic Flows

| Period (hours) | For Assessment <sup>1</sup> |               |        |               |
|----------------|-----------------------------|---------------|--------|---------------|
|                | Unit 1                      |               | Unit 2 |               |
|                | HGVs                        | Light Vehicle | HGV    | Light Vehicle |
| 0000-0100      | 3                           | 10            | 3      | 10            |
| 0100-0200      | 3                           | 11            | 3      | 11            |
| 0200-0300      | 2                           | 5             | 2      | 5             |
| 0300-0400      | 3                           | 10            | 3      | 10            |
| 0400-0500      | 2                           | 8             | 2      | 8             |
| 0500-0600      | 2                           | 7             | 2      | 7             |
| 0600-0700      | 3                           | 10            | 3      | 10            |
| 0700-0800      | 3                           | 19            | 3      | 19            |
| 0800-0900      | 5                           | 57            | 5      | 57            |
| 0900-1000      | 0                           | 21            | 0      | 21            |
| 1000-1100      | 12                          | 17            | 12     | 17            |
| 1100-1200      | 0                           | 19            | 0      | 19            |
| 1200-1300      | 0                           | 14            | 0      | 14            |
| 1300-1400      | 0                           | 38            | 0      | 38            |
| 1400-1500      | 3                           | 19            | 3      | 19            |
| 1500-1600      | 10                          | 7             | 10     | 7             |
| 1600-1700      | 3                           | 17            | 3      | 17            |
| 1700-1800      | 3                           | 54            | 3      | 54            |
| 1800-1900      | 7                           | 36            | 7      | 36            |
| 1900-2000      | 2                           | 5             | 2      | 5             |
| 2000-2100      | 2                           | 3             | 2      | 3             |
| 2100-2200      | 2                           | 5             | 2      | 5             |
| 2200-2300      | 2                           | 5             | 2      | 5             |
| 2300-2400      | 2                           | 5             | 2      | 5             |

The number of vehicles accessing and leaving the site on an hourly basis has been provided by BWB Consulting for the proposed use of the scheme. The provided number has been halved and rounded up to provide figures for each unit. These are the figures shown above.

We questioned the developer via the Planning Dept. to ensure we were using the correct statistics and the response is as follows:

As set out at the bottom of page 17 of the Planning Noise Assessment, the numbers within the Predicted Traffic Flows table are 2 way movements (i.e. one entrance and one exit). Both the in and out activities are included within the noise calculations and so the predicted traffic flow numbers have been doubled.

The table below has been prepared to compare the assessment methodology against the resident's recommended methodology, in an attempt to explain that the noise assessment has taken into account double the numbers within the Predicted Traffic Flows table:

| Scenario                  | Traffic Flow Numbers<br>(HGVs to both units, 0000-0100)        | "Movement"<br>Composition           | Total "in + out" activities in<br>resulting noise calculations |
|---------------------------|--|-------------------------------------|--|
| Planning Noise Assessment | 6 movements<br>(combining in and out activities)               | 6 in activities<br>6 out activities | 12   |
| Resident Query            | 12 movements<br>(considering in and out activities separately) | 6 in activities<br>6 out activities | 12   |

As you can see, the resulting total "in + out" figure is the same, it is just the traffic flow numbers have been presented differently.

For reference, the factors that are taken into account in the "in and out" activities are set out in Schedule SCH2 in the Cole Jarman Planning Noise Assessment (19/0333/R2-1). As set out above, the footnote to the table Schedule SCH1 notes that the figures are 2-way movements include in and out activity.

This confirms the following chart to be accurate resulting in a total of 1890 trips each and every day into and out of Maple Cross.

**- TRAFFIC and TRIPS for the warehouse development/s.**

**Predicted Traffic Flows for 2 warehouses by hour of day based on vehicles and trips**

| Hourly segments      | DAILY VEHICLE NUMBERS |                            |                         | DAILY VEHICLE TRIPS |                            |                         | WEEKLY VEHICLE NUMBERS |                            |                         | WEEKLY VEHICLE TRIPS |                            |                         | ANNUAL VEHICLE NUMBERS |                            |                         | ANNUAL VEHICLE TRIPS |                            |                         |
|----------------------|-----------------------|----------------------------|-------------------------|---------------------|----------------------------|-------------------------|------------------------|----------------------------|-------------------------|----------------------|----------------------------|-------------------------|------------------------|----------------------------|-------------------------|----------------------|----------------------------|-------------------------|
|                      | HGVs visiting site    | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs | HGVs visiting site  | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs | HGVs visiting site     | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs | HGVs visiting site   | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs | HGVs visiting site     | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs | HGVs visiting site   | LDVs and LVs visiting site | TOTAL HGVs + LDVs + LVs |
| midnight-1am         | 0                     | 20                         | 20                      | 12                  | 40                         | 52                      | 42                     | 140                        | 182                     | 84                   | 280                        | 364                     | 2184                   | 7280                       | 9484                    | 4368                 | 14560                      | 18628                   |
| 1am-2am              | 0                     | 20                         | 20                      | 12                  | 44                         | 56                      | 42                     | 154                        | 190                     | 84                   | 308                        | 392                     | 2184                   | 6936                       | 10160                   | 4368                 | 16016                      | 20384                   |
| 2am-3am              | 0                     | 10                         | 14                      | 0                   | 30                         | 30                      | 28                     | 70                         | 90                      | 56                   | 140                        | 196                     | 1456                   | 3640                       | 5096                    | 2512                 | 7280                       | 10192                   |
| 3am-4am              | 0                     | 20                         | 26                      | 12                  | 40                         | 52                      | 42                     | 140                        | 182                     | 84                   | 280                        | 364                     | 2184                   | 7280                       | 9484                    | 4368                 | 14560                      | 18628                   |
| 4am-5am              | 0                     | 16                         | 20                      | 8                   | 32                         | 40                      | 28                     | 112                        | 140                     | 56                   | 224                        | 280                     | 1456                   | 5824                       | 7280                    | 2912                 | 11548                      | 14560                   |
| 5am-6am              | 0                     | 14                         | 18                      | 8                   | 28                         | 36                      | 28                     | 98                         | 126                     | 56                   | 196                        | 252                     | 1456                   | 6932                       | 2912                    | 10192                | 13104                      |                         |
| 6am-7am              | 0                     | 20                         | 26                      | 12                  | 40                         | 52                      | 42                     | 140                        | 182                     | 84                   | 280                        | 364                     | 2184                   | 7280                       | 9484                    | 4368                 | 14560                      | 18628                   |
| 7am-8am              | 0                     | 38                         | 44                      | 12                  | 76                         | 88                      | 42                     | 206                        | 238                     | 84                   | 532                        | 616                     | 2184                   | 13632                      | 16016                   | 4368                 | 27664                      | 32532                   |
| 8am-9am              | 10                    | 114                        | 124                     | 20                  | 228                        | 248                     | 70                     | 758                        | 868                     | 140                  | 1596                       | 1736                    | 3640                   | 41496                      | 45136                   | 7280                 | 82962                      | 90772                   |
| 9am-10am             | 0                     | 42                         | 42                      | 0                   | 84                         | 84                      | 0                      | 294                        | 294                     | 0                    | 588                        | 588                     | 0                      | 15288                      | 15288                   | 0                    | 39576                      | 39576                   |
| 10am-11am            | 24                    | 34                         | 58                      | 48                  | 68                         | 116                     | 168                    | 238                        | 436                     | 336                  | 476                        | 812                     | 6736                   | 12276                      | 21112                   | 17472                | 24752                      | 42224                   |
| 11am-midday          | 0                     | 38                         | 38                      | 0                   | 76                         | 76                      | 0                      | 268                        | 268                     | 0                    | 532                        | 532                     | 0                      | 13832                      | 13832                   | 0                    | 27664                      | 27664                   |
| midday-1pm           | 0                     | 28                         | 28                      | 0                   | 56                         | 56                      | 0                      | 196                        | 196                     | 0                    | 392                        | 392                     | 0                      | 10192                      | 10192                   | 0                    | 20384                      | 20384                   |
| 1pm-2pm              | 0                     | 76                         | 76                      | 0                   | 152                        | 152                     | 0                      | 532                        | 532                     | 0                    | 1064                       | 1064                    | 0                      | 27664                      | 27664                   | 0                    | 55328                      | 55328                   |
| 2pm-3pm              | 0                     | 38                         | 44                      | 12                  | 76                         | 88                      | 42                     | 206                        | 238                     | 84                   | 532                        | 616                     | 2184                   | 13632                      | 16016                   | 4368                 | 27664                      | 32532                   |
| 3pm-4pm              | 20                    | 14                         | 34                      | 40                  | 38                         | 78                      | 40                     | 160                        | 180                     | 280                  | 476                        | 476                     | 7280                   | 5096                       | 12276                   | 14560                | 15192                      | 24752                   |
| 4pm-5pm              | 0                     | 34                         | 40                      | 12                  | 68                         | 80                      | 42                     | 238                        | 280                     | 84                   | 476                        | 560                     | 2184                   | 12276                      | 14560                   | 4368                 | 24752                      | 29120                   |
| 5pm-6pm              | 0                     | 108                        | 114                     | 12                  | 216                        | 228                     | 42                     | 758                        | 798                     | 84                   | 1512                       | 1596                    | 2184                   | 39512                      | 41496                   | 4368                 | 78634                      | 82962                   |
| 6pm-7pm              | 7                     | 72                         | 79                      | 14                  | 144                        | 158                     | 48                     | 504                        | 553                     | 84                   | 1036                       | 1156                    | 2548                   | 26328                      | 28796                   | 5096                 | 32416                      | 37312                   |
| 7pm-8pm              | 0                     | 10                         | 14                      | 0                   | 20                         | 28                      | 28                     | 70                         | 98                      | 56                   | 140                        | 196                     | 1456                   | 3640                       | 5096                    | 2512                 | 7280                       | 10192                   |
| 8pm-9pm              | 0                     | 6                          | 10                      | 0                   | 12                         | 20                      | 28                     | 42                         | 70                      | 56                   | 84                         | 140                     | 1456                   | 2184                       | 3640                    | 2512                 | 4368                       | 7280                    |
| 9pm-10pm             | 0                     | 10                         | 14                      | 0                   | 20                         | 28                      | 28                     | 70                         | 98                      | 56                   | 140                        | 196                     | 1456                   | 3640                       | 5096                    | 2512                 | 7280                       | 10192                   |
| 10pm-11pm            | 0                     | 10                         | 14                      | 0                   | 20                         | 28                      | 28                     | 70                         | 98                      | 56                   | 140                        | 196                     | 1456                   | 3640                       | 5096                    | 2512                 | 7280                       | 10192                   |
| 11pm-midnight        | 0                     | 10                         | 14                      | 0                   | 20                         | 28                      | 28                     | 70                         | 98                      | 56                   | 140                        | 196                     | 1456                   | 3640                       | 5096                    | 2512                 | 7280                       | 10192                   |
| Total x vehicle type | 141                   | 804                        | 945                     | 282                 | 1608                       | 1890                    | 687                    | 5428                       | 6615                    | 1974                 | 11296                      | 13230                   | 51324                  | 280808                     | 343080                  | 102048               | 4368                       | 687960                  |

These data have been derived by taking the Planning Noise Assessment Report 19/0333/R2 presented by Cole Jarman in the TRDC Planning website and summarising the data shown in the appendix on predicted traffic flows.

Herts CC Highways meantime posted the following online in response to a planning enquiry:

A supplemental comment in relation to the predicted trip generation / vehicle movements:

The proposals have been predicted as generating upto 695 daily two way trips, which is considered to be generous due to the methodology used to derive that figure. The methodology used is robust and has been verified in TRICs by myself and the actual figure would most likely be significantly less than this due to the use of the 85<sup>th</sup> percentile rather than the mean, which would provide a lower figure.

From investigation, I think the referred to 2000 trips has been derived by doubling the number of vehicle movements from schedule 19/0333/SCH1 of the submitted Planning Noise Assessment. The schedule refers to a total of 952 trips over a 24 hours period, a figure that should not be doubled as the total figure already takes into consideration each way (i.e. in and out of the site).

Nevertheless, the Transport Assessment (and the methods within) would be the normal and robust assessment under which the trip generation would be reviewed and assessed and this is where the predicted 695 figure is derived from. HCC as Highway Authority does not endorse, support or consider the 2000 figure as being appropriate, and is not borne out by the predictions in the Transport Assessment.

The developer has confirmed, in writing, that there will be 1890 trips per day but Herts CC have based all their calculations on a figure of 695 trips, a massive discrepancy. There are 16 doors to these warehouses and since they require a 24/7 operation it would be highly unlikely that the figure of 695 trips is accurate after examining other similar warehouses.

The following details have been omitted from Herts C.C. Highway's calculations in order to verify whether or not the warehouse traffic would cause a significant problem regarding the flow of traffic along the A412, cause an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Email response to our concerns were received from HCC – blue italics.

a) Whilst HS2's travel plan states that their vehicles will use the slip onto the M25, this has been found to be highly inaccurate as reported by residents who live and travel along the A412 and has impacted on the road causing further congestion. Complaints have been logged directly with HS2 – Align, similarly the mud on the road traced back to their site. Despite repeated assurances that they will stop their vehicles using the A412 it still happens. These vehicles have not been included in the transport assessment.

*HCC's team is now in contact with HS2 to see what can be done about enforcement of Construction Route Plans.*

b) The Crowne Plaza, Witney Place (18/1424/CLPD) hotel/conference centre/gym/restaurant has 375 parking bays. Access will be gained from the Thames Water Access Road. Both the gym and the restaurant will create multiple journeys throughout the day whilst the conference centre and the 207 hotel bedrooms are likely to result in journeys during peak times. Since the hotel did not provide a travel plan these vehicles have all been excluded from the transport assessment.

*HCC has now requested a trip generation/vehicle number assessment to be carried out.*

c) Vehicles going to the Thames Water Sewage Treatment Works have increased substantially since the last application was submitted (19/1179/FUL) and the increase in vehicle trips has risen from 16 to over 200 per day we are given to understand this is due to HS2. This excludes staff vehicles. These have also been excluded from Herts C.C. transport assessment.

*HCC have now asked TRDC to investigate whether or not there has been a material change in the number of trips.*

d) Retrospective planning permission has been sought by occupiers of the Maple Lodge site that currently hold 90 live operating licenses for HGV's and Trailers. Bulk Transfer are currently appealing against Notice to remove all their vehicles/trailers etc from the Green Belt. These also appear to be excluded from the transport assessment.



*Some of the existing recorded trips on the private access road would most likely be included. The HA would not give permission for the retrospective planning permissions sought without a trip generation/vehicle number.*

e) Hertford Place (54,000 sq ft) is inline for refurbishment according to the owners who state that it will house approx. 450 people. Since these premises are currently vacant Herts C.C. have also excluded them from the transport assessment.

f) The traffic lights at the Reach Free School cause severe congestion resulting in traffic backing up on the slip of the M25 and along the A412. This impact does not appear to have been given any consideration. Herts CC were unaware this set of traffic lights but due to our FOI have updated their system. During times of heavy congestion it also impacts on the Thames Water Access Road.

*The submitted TA and the capacity of the surrounding highway junctions takes into consideration any trip generation inc. the Reach Free School.*

g) Even in lockdown residents of our area have experienced frequent traffic congestion problems and query whether or not any assumptions have been made regarding eg the M25 overflow and when M25 traffic is diverted through Maple Cross.

*The site is an allocated employment site in TRDC's Local Plan and the A412 is classified as a main distributor A road which forms part of the principle A road network. Therefore the number of additional trips from the application site onto the A road would not be considered to be severe in this context.*

This is a speculative development with unknown tenants that may all need greater access to the A40.

h) According to BWB, Woodoaks Farm 'access can be retained informally within the junction on the basis that vehicle trips will be low, or formally signalised as a worst-case (on a demand led basis)'. This was written prior to lockdown and has not been updated for this new application. Woodoaks Farm has become an enormously popular destination for local residents and visitors alike. At weekends all their parking spaces and road has been jam packed with cars. So both the Farm's current and future business activities will necessitate signalisation. The current (2021) traffic numbers have not been taken into consideration.

We now await Herts CC's rejigged traffic numbers – using the traffic numbers as provided by BWB to Cole Jarman, together with updated vehicle trip numbers to include all that were omitted previously. We believe the residual cumulative impacts will be severe.

In Three Rivers 31% of emissions come from transport (take climate action.uk), should this development be sanctioned this figure will rise, how will TRDC reduce emissions in our area? We do not believe that the impact on our air quality has been properly assessed and BWB clarified that they do not have to raise an Air Quality Assessment as there will be less than 500 trips where drivers turn left from the Access Road:

*'The change in traffic on the A412 Denham Way south of the site access road remains well below the Stage 2 criteria of 500 Light Duty Vehicles and/or 100 HDV's outside of an Air Quality Management Area. In accordance with IAQM and EPUK guidance, the impact on local air quality as a result of the increased trips associated with the proposed development was considered to be insignificant and the conclusions of the June 2019 air quality assessment remain valid.'*

As this is a speculative development for unknown tenants neither Herts C.C. nor the developer can guarantee that more traffic will not take the route towards Denham and the A40 so an independent Air Quality monitoring assessment should have been conducted in order to safeguard residents.



Some vehicles will be Euro compliant but the bulk of the warehouse vehicles are expected to be vans according to the Dept of Transport 'nearly all are powered by diesel (96%). This means that the proportion of the country's van stock that is ultra low carbon emitting is small (0.3%)'. Whilst exhaust emissions are legislated against, pollution from tyre wear can be 1,000 times worse than a car's exhaust emissions as confirmed by the Air Quality Expert Group's Non Exhaust Emissions from Road Traffic report, commissioned by DEFRA: 'the best way to reduce emissions is to lower the overall volume of traffic. The Govt report has warned that damaging levels of pollution will still be released into the atmosphere even if electric cars become widespread. Brake and tyre wear contributes as much as 28% of total micro plastic pollution and these non exhaust emissions should be considered as potentially having a greater public health impact than the exhaust particles.' The heavier the vehicle, the greater the level of pollution that is generated, thus vans and HGVs contribute significantly more than cars.

It will be highly unlikely that TRDC will be able to meet their future air quality targets with this increase in traffic.

Whilst the Planning Inspector felt that the overall increase in vehicles are very low – 114 extra vans and 10 HGVs - when children walk to school. We draw your attention to the unlegislated pollution from these vehicles which could cause the tipping of the balance. If a brand new hatchback car with correctly inflated tyres produces 5.8 grams per kilometre, an old loaded van will create significantly more and there will be a further increase generated by HGV's. The legislation governing exhaust emissions = 4.5 milligrams per kilometre.

The Planning Inspector concluded that any additional emissions would be unlikely to have an impact on children walking to school and thought that the proposal would not have an adverse effect on air quality levels within the area. This decision was made prior to the landmark ruling that air pollution was a cause of death of the nine year old – Ella Adoo-Kissi-Debrah. WHO: children breathe more rapidly than adults and so absorb more pollutants, closer to the ground some pollutants reach peak concentrations when their bodies and brains are still developing. Toxic air pollution is a public health crisis, stunting children's brains and affecting their health in far more ways than we ever suspected, resulting in harm to their physical and mental development. Inaction and acceptance is no longer the way forward as TRDC's Climate Emergency and Sustainability Strategy outlines and is supported by many government policies.

#### **4) Flooding**

Tier Flood Risk Assessment and Drainage Strategy:

Pg 5: *'The access road has flooded in the past as a result of poor road design which will be improved as part of the proposed development. To mitigate flooding the access road will be positively drained into the proposed drainage network'*

The Thames Water Access Road was built over a stream/ditch, hence the flooding is not due to poor drainage, it is as a result of high ground water levels and increased rainfall due to Climate Change causing this stream/ditch to reappear. Climate Change will increase the flow and regularity of flooding and this must be acknowledged and addressed by the developers.

#### **5) Cumulative**

Para 15: Conserving and enhancing the natural environment, and states that:

*"Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local*

*environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants ... and the cumulative impacts from individual sites in local areas.*

**Woodoaks Farm** is a truly sustainable development and is now owned by the Soil Association who plan to grow a range of organic produce and to develop an ecosystem of small food and farming enterprises. This organisation strives to place itself at the heart of the community and in a very short period of time has contacted many local community groups. We very much look forward to their new venture and are delighted that one of their many proposals for the site is the installation of a farm shop. However the Farm entrance is virtually opposite the mouth of the Thames Water Access Road and with 1890 additional vehicle trips per day in addition to all the trips that Herts have failed to include could have a negative impact on the Farm's success. Who will want to purchase organic produce from a heavily polluted field? The warehouse developer will be the Agent of Change and as such has the responsibility to safeguard Woodoaks Farm for the community. Furthermore Woodoaks Farm, unlike the developer, meets many of the Climate Emergency and Sustainability Strategy objectives 2021 - 2026: 'Encourage sustainable food production and consumption in the district.' 'We need a shift in what we eat: buying seasonal, locally produced foods to reduce emissions and improve self sufficiency in the District.' 'Land owners farmers to maximise opportunities for biodiversity gain and climate adaptation', Woodoaks Farm already maximises opportunities for biodiversity gain. By engaging with the community and providing employment they are a perfect illustration of a sustainable business which must not be made to suffer the consequences of a poorly sited warehouse.

#### **Springwell Lake:**

This was overlooked in its entirety in the previous round. We fully endorse the comprehensive submission produced by Graham Nye on behalf of the Springwell Residents and Conservation Association as not only will they be heavily impacted by this proposed development but the Amenity will be greatly compromised.

#### **Residents & Children:**

The NPPF Para 6: Planning decisions should take into account the likely effects of pollution on health and living conditions that could arise due to a development. Residents and their children will be subjected to greater levels of pollution (1890 vehicle trips each and every day with no respite) not only when children are walking to/from school but playing in their gardens/park. PM2.5 doesn't stay at a roadside it drifts in the air and carries easily into lungs. So health within our area will deteriorate and deaths caused by pollution will rise, children here already die five years younger than their parents so an increase in pollution will directly reduce our children's' life span. This is a fact – ONS stats. This development will compromise our way of life, even at weekends we will be subjected to increased noise and traffic, a relentless non compromising unsustainable form of development that is unacceptable when sited next to a residential area.

#### **6) Environmental Effects:**

The development will cause a severe and substantial impact and in accordance with the WFD this application must be rejected by TRDC as they have overall responsibility to ensure that permission is not granted to development which could compromise the WFD objectives which this proposed development does.

Please refer to the comprehensive documents lodged online which the R.A. fully endorse:  
Keith Pursall – Maple Lodge Conservation Society

## 7) Economic:

Judith Passingham has carried out a detailed examination to discover whether or not the warehouses development delivers what the district needs. This document is lodged online and the R.A. fully endorses it.

## 8) Noise:

Should this development be sanctioned, despite the evidence that clearly warrants your refusal, we would request that TRDC impose certain restrictions both during and post construction. The developers will use a minimum of 1 – 2 rigs (total 3) at a time, to drive 3310 piles into the ground. This piling activity will create noise levels ranging between 100 – 135+ dB and will continue for weeks.



Please insist that the developer installs monitoring equipment so that if the noise reaches x then work must stop for x time, other councils insist on this. This issue needs to be addressed as there are many residents with young families in very close proximity to the site and many more residents, due to the pandemic, are now working from home. Some residents have retrained and are now self employed, building their fledgling businesses. All these livelihoods will be put at risk during this construction process, the trade off post construction of these warehouses will be limited jobs for skill sets unsuited to local residents.

The current noise level must be recorded so that if in the future the tenants choose to increase the sound levels by using eg refrigerated units, the sound level is not based on the new noise level. Env. Health mentioned 'noise creep' but unfortunately there has been no follow through by the dept. on this topic.

We need you to adhere to the government's 'building back better, supporting green jobs, and accelerating our path to net zero', whilst adhering to the fundamental goals of reacting positively to the Climate Emergency and Sustainability Strategy (TRDC 2021). The warehouses oppose these principles in every conceivable manner due to all the aforementioned reasons and therefore the planning balance of the interlinked Economic / Social / Environmental Objectives are not met. Therefore this proposed development that must be REJECTED.

- 4.3.6.2 Further representation received raising concerns regarding how difference officers/consultees are treating the application. Specific reference made to vehicle number details.
- 4.3.6.3 Further representations were received from the Residents Association on 22 April 2021. This comprised a 20 page document 'Doc #1 Traffic and its Implications'.
- 4.3.6.4 Further representations were received from the Residents Association (dated 26 April 2021) in relation to traffic counts for the proposed development. The letter states that it is a direct call for action on the part of the Council to address this matter without further protraction and delay.
- 4.3.6.5 Following the submission of additional information by the applicant in response to the Highway Authority's request for additional information, further objection comments were received from the Residents Association titled 'Response to new BWB document LNT2082'.
- 4.3.6.6 A Noise Report commissioned by Maple Cross and West Hyde Residents Association and undertaken by Cass Allen (Architectural and Environmental Acousticians Noise and Vibration Engineers) has been submitted by the Residents Association in support of their objection to the application including on grounds that there would be an adverse impact as a result of noise and the development fails to comply with TRDC Policy DM9 in this regard.
- 4.3.6.7 Following the submission of a response by the applicant's Noise Consultants, a further report by Cass Allen was submitted providing further comments.
- 4.3.6.8 Further representations were received from the Residents Association on 21 September 2021 reiterating concerns regarding the impact of the development on the underlying chalk aquifer and drinking water. The representation reiterates the RAs view that the development would be contrary to the Water Framework Directive and that TRDC therefore must refuse planning permission. The representation refers to legal advice sought by the RA on this matter.
- 4.3.6.9 Further representations were received from the Residents Association on 30 September 2021. The letter questions the advice received from Hertfordshire Ecology, which is considered by the RA to be both incorrect and inconsistent. There is reference to another site (Killingdown Farm) where the DEFRA metric has been used.
- 4.3.7 Woodoaks Farm - Soil Association Land Trust: [Objection]

The Soil Association Land Trust has recently taken on the care of Woodoaks Farm and plans to use it to showcase a more sustainable approach to land management, integrating farming and food production with environmental enhancement and public benefit. We see Woodoaks very much as part of the wider Colne Valley Regional Park and the network of green space, wildlife habitats and water features it provides.

I am writing to object to this planning application on the grounds that it is an overly large-scale development and intensive land use so close to existing residential areas that will adversely impact on local amenity and the natural environment including biodiversity and water.

This application has been highly contentious as evidenced by the large number of objections and petitions raised by local people. The scale, mass and form of the proposed buildings will have an adverse impact on the area and will destroy an area of greenspace adjacent to an important local nature reserve.

The additional traffic generated will add to the pressure on an already congested road system that can easily become gridlocked as a result of congestion on the M25. The nature of the proposed operation will also extend the movements of heavy vehicles throughout the

day and night seven days a week adding to the disturbance, air pollution and noise for local residents. 24-hour operation will also extend the need for artificial lighting causing additional light pollution that will be disruptive to bats and other wildlife.

We are particularly concerned about the loss of biodiversity that will result from the development of this site and the potential adverse impact on the Maple Lodge Nature Reserve and would wholeheartedly endorse the comprehensive and detailed objections that the Maple Lodge Conservation Society have made. These are valuable green spaces which are ever-more important environmental assets in view of the catastrophic losses of wildlife in the countryside at large and the ongoing impacts of climate change. Protected trees will be lost, locally important habitats will be lost and ground water flows disrupted with untold consequences for the adjoining wetlands and reed beds which are UK Priority Habitats.

The proposals do not include a detailed assessment of ecosystem impacts nor any convincing mitigation or biodiversity offsetting proposals. The application should not be determined until this has been done, in accordance with current best practice. The applicants must demonstrate clearly that there will be no adverse impacts on the surrounding ecosystems or that any adverse impacts can be satisfactorily mitigated with a guaranteed biodiversity net gain.

In addition, the impact of the development on ground and surface waters on the edge of the floodplain is a major concern. The application itself has acknowledged that there will be disruption to groundwater flows caused by the piling required in the construction of the buildings, and there is an increased likelihood of surface water pollution. If any of this poses a threat to the adjoining fragile wetland ecosystems, which seems highly likely, the precautionary principle should be applied, and consent refused.

At Woodoaks Farm we will be promoting the benefits of sustainable production and encouraging local consumption of local produce. We do not believe that centralised distribution of goods, dependent on national road transport systems is the right approach at a time when climate change and environmental degradation are our greatest challenges.

We would urge Three Rivers District Council to act on its recent commitments to accept that we are in a climate emergency and that we need to think differently about reducing environmental impacts, and refuse this application.

If this proposal is approved, which we seriously hope will not be the case, we feel that the impacts on agricultural and visitor traffic to Woodoaks Farm need to be taken into account. Drawing number MLC-BWB-GEN-XX-DR-TR-0001 showing details of the proposed signal-controlled junction on Denham Way does not show the farm entrance immediately opposite the site and no provision seems to have been made for traffic turning right into the farm when travelling south on the A412.

Paragraph 8.5 of the Transport Assessment states: 'the farm access can be retained informally within the junction as shown, on the basis that vehicle trips will be low, or formally signalised as a worst-case (on a demand led basis)' and no attempt has been made to quantify or analyse the volumes or types of traffic using this entrance.

This access to the farm is used by a range of large agricultural machinery including tractors and trailers, combine harvesters, cultivation equipment, hay and straw transport and delivery lorries as well as increasing volumes of visitor traffic. It is vital that proper provision is made for this use in any re-design of the junction.

#### 4.3.8 Springwell Residents & Conservation Association: [Objection]

I object to the proposal in my personal capacity as a home and business owner affected by the proposal but also as Chairman of the Springwell Residents and Conservation Association, being made up of those households situated within the hamlet of the Springwell Lock Conservation Area (plan attached).

We note that this is the second application following a refusal and dismissal at appeal. I also note the limited grounds for dismissal at appeal in respect of drinking water quality risks, however I believe that the following concerns should also now be considered for the following reasons:

1. No households or businesses in our hamlet were notified of this application, or the original application, or the appeal, despite the proposed development being highly visible from our locality plus at increased risk from noise pollution year-round. We have only in recent days found out about the proposals via social media and have therefore had no opportunity to object previously. Central Government guidance on consultation and pre-decision matters states: ... local planning authorities ... to publicise planning applications so that those with an interest can make representations and effectively participate in the decision-making process.

2. The public path around Springwell Lake passes just 200m from the application site in places. It is popular with walkers, bird watchers and fishermen who enjoy the tranquil natural habitat which is a designated Site of Importance for Nature Conservation, a Nature Conservation Site of Metropolitan or Borough Grade 1 Importance, and a Local Nature Reserve (see attached Hillingdon plan). Given its close proximity to the application site, it is unfortunate that a public notice was not posted on the path advising of applications of this magnitude at such close proximity. The views of a number of important public groups (making up the recreational and amenity users of Springwell Lake nature area) have thus been potentially excluded from the public consultation on the application.

3. Our homes, businesses and local public spaces will be exposed to more light intrusion and noise pollution by the proposed development than arguably any other locality close to the proposed development.

4. The submitted documents dealing with light pollution and mitigation are based on false assumptions and misleading data not previously uncovered, which casts grave doubt over the legitimacy of the Landscape and Visual Impact Assessment.

5. The submitted documents dealing with public sightlines and viewpoints are inaccurate, incomplete and misleading and therefore lead to false conclusions.

It is therefore our contention that the information contained in the application needs to be re-examined.

### Viewpoints and sightlines

#### Viewpoint 6

I attach page 5 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 6, a public bench and viewing platform on the popular walking route around Springwell Lake, a Site of Importance for Nature Conservation. The "Distance to Site" from the viewpoint is claimed as 460m. This is false. The actual distance to the site from this viewpoint is approximately 200m, less than half of that recorded.

The photograph in the submitted documents is taken from low level at a time when flora is in full leaf.

I attach a photograph taken on 21st March 2021 while some plants and trees are just coming into leaf and the trees on the site boundary and the buildings behind the application site are visible.

#### Viewpoint 17 and Springwell Residents viewpoints

I attach page 16 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 17, the path on the east side of the public route around Springwell Lake.

The photograph in the submitted document is also taken from low level in high summer at a time when all flora is in full leaf.

I attach a photograph taken on 21st March 2021 and in this photo the application site boundary and the buildings behind the site are still visible.

This viewpoint is closely similar to the views enjoyed by residents of the Springwell Lock Conservation Area who have a westerly outlook across Springwell Lake.

#### Viewpoint 18

I attach page 17 from Part 2 of the Landscape Visual Appraisal Report which deals with Viewpoint 18 on public bridleway U3, part of the popular Colne Valley Trail. The photograph in the submitted document is taken from an obscured position again with trees in full leaf.

I attach a photograph taken on 22nd March 2021 at a point just a few feet further along the trail and the application site boundary and the buildings behind the site are significantly more visible.

#### Summary of Viewpoints and sightlines

The application data for these popular public viewpoints is inaccurate and the photos misleading. The submitted documents suggest that at all of these important viewpoints the proposed development will not be visible and the visual impact Negligible. A critical distance has been over-reported, obscured sightlines used, and no consideration given to the views for nearly half the year when the trees are bare.

The proposed buildings will be clearly visible in places and partially visible in others through bare trees, whilst at night with buildings lit throughout the hours of darkness, the visual impact would be Significant

#### Light intrusion

I attach a photo taken close to Viewpoint 17 at 1:30pm and another from the same spot, taken after office hours at 7:30pm on Monday 22nd March for comparison. In both photos, the proposed buildings are central to the frame and would fill about 70% of the near horizon. The amount of light visible from any of the above-referenced public viewpoints would have been similar at any time on any evening. What can be seen is a naturally dark view with a handful of dim light points in the far distance from the road lighting in the village of Maple Cross.

From public viewpoints 6, 17 & 18 and many others around the Springwell Lock Conservation Area these are incontrovertibly intrinsically dark natural landscapes at night.

I attach and refer to the Institute of Lighting Professionals - ILP (previously the Institute of Lighting Engineers - ILE) 2020 guidance notes for Local Planning Authorities. The ILP scale of Environmental Zones from E0 to E4 would place these natural landscapes adjoining the application site to the East, (Springwell Lake) and to the South (Maple Lodge Nature Reserve) as Zone E1 (Natural / Intrinsically dark). The other boundary areas to the application site would likely be classed E2 (Village or relatively dark outer suburban locations).

The documentation claims the application site as corresponding to Environmental Zone 3 - described by the ILP as "Small town centres or suburban locations" which appears excessive.

Even if it could be argued that the site be Zone 3, the ILP guidance for LPAs clearly states that: "Where an area to be lit lies on the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone."

Therefore in the case of the application site with two boundaries in Zone 1, the light limitation values must be that of Zone 1.

Guidance for Zone E1: S

ky Glow ULR: 0%

Luminaire Intensity: After 11pm curfew, 0 Candelas

Vertical Luminance: After 11pm < 0.1Lx

This indicates that any light emanating from the application site area at any time after 11pm is unacceptable. The only exception would be light emanating from public road lighting installations, but as the site is served only by a private road, street lighting will also be deemed unacceptable by the guidance. Headlights visible due to vehicle movements in and out of the site during the night would therefore also be inappropriate and damaging to the naturally dark landscapes of Springwell Lake and Maple Lodge Nature reserves.

The application as proposed orientates vehicle access, car parks, loading bays, office windows, roof skylights, lorry turning areas and warehouse entrance-ways in the most part, facing East to the most sensitive natural habitat and adjoining Environmental Zone 1 landscape.

Section 5.25 of page 31 of Part 1 of the applicant's Landscape and Visual Appraisal Report / Impact Assessment (LVIA) states:

"For the purposes of this LVIA, the existing conditions in the vicinity of the site are considered to correspond with Environmental Zone E3", whereas correctly interpreted above it corresponds to Zone E1 on at least 1 boundary. This brings into question the validity of the LVIA, which is a cornerstone of the claimed acceptability of the development in this locality, which now can be seen to be contrary to the National Planning Policy Framework and Local Development Management Policies:

Specific to landscape within Section 15 of the NPPF: "Conserving and enhancing the natural environment", paragraph 170 requires that the planning policies and decisions contribute to and enhance the natural and local environment by "protecting and enhancing valued landscapes...." and by "recognising the intrinsic character and beauty of the countryside". The revised Framework, therefore, seeks the protection and enhancement of landscapes / countryside.

Specific to lighting the NPPF states development should: limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

TRDC Local Plan Policy DM7.b states:

Proposals that would unacceptably harm the character of the landscape in terms of siting, scale, design or external appearance will be refused planning permission

TRDC Local Plan Policy DM9.e states:

Development proposals which include external lighting should ensure that:

- ii) There is no unacceptable adverse impact on neighbouring or nearby properties
- iii) There is no unacceptable adverse impact on the surrounding countryside
- vi) There is no unacceptably adverse impact on wildlife



vii) Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting scheme is sensitively designed to prevent negative impacts on use of these habitats and habitat features.

#### Summary of obtrusive light issues:

With regard to the above policies and in the context of LPA guidance on obtrusive light limitations, the site, as designed, fails to meet policy objectives and is unsuitable and inappropriate development when intended for operation at night.

Only by the adoption of a different use or by a fundamental redesign of the site according to Zone E1 guidance, without external lighting, entrance ways, windows, nor the approach of vehicles with headlights visible at night could the above concerns be adequately mitigated to be in accordance with the ILP guidelines, NPPF and Local Development Management Policy.

#### **Noise**

I attach an image called: Springwell area plan - Viewpoints 6\_17&18 - Maple Lodge loading beepers

Households circled in green and recreational visitors to Springwell Lake walks and Reed Beds are currently disturbed by the reversing beeper from a single loading vehicle at Maple Lodge sewage treatment plant. This has been the source of numerous documented complaints by residents of the Springwell area to Maple Lodge management. Despite their best efforts to minimise its operation, the noise carries unattenuated across Springwell Lake and is a significant nuisance.

The above noise from a single vehicle, operating irregularly would be of nothing compared with multiple vehicles operating continually all day and night, 7 days per week at the application site. The noise carried across the lake would be unimaginable and would ruin the quiet enjoyment of residents and public alike in the Springwell area and around the lakeside paths, canal towpath and public bridleway.

Springwell Lake is also a popular destination for fishermen who use the lakeside platforms day and night. This is an amenity use that would be unacceptably adversely affected by the proposals.

TRDC Local Plan Policy DM9.d states:

Planning permission will not be granted for development which:

- i) Has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development
- ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation

The normal statutory noise curfew hours between 11pm and 7am also appear to have been ignored by the application. There is nothing in the proposals which mitigate transmission of noise to sensitive areas between these hours or at any time.

#### **Noise summary**

The orientation of the site means that the majority of the noise generated at the site from vehicle reversing beepers and loading bays will be reflected towards the largely tranquil Springwell Lake trails and residents of the Springwell Lock Conservation area whose views have not been consulted. As designed, the adverse impacts on the above groups will be unacceptable and contrary to the above policy.

#### **Conclusions of this submission**

1. As designed, it has been shown that the application site is unsuitable for night time operations due to unacceptable light intrusion, and at any time due to the noise that would adversely affect the recreational and amenity use Springwell Lake nature area. It is unlikely that these factors could be satisfactorily controlled by conditions.

Only the complete acoustic enclosure of the site envelope including the service road to prevent any emission of sound or light could remedy this.

2. No very special circumstances have been given as to why operation of the site should not be restricted to "normal working hours". Economic viability arguments for development are not a justification for allowing adverse environmental or social impacts.

3. The refusal of the original application by TRDC and the findings within the Planning Inspectorate's appeal decision report relied upon the accuracy and truthfulness of the applicant's submitted information which is shown to be in doubt. Had the above information been highlighted at the time of consideration of the original application and subsequent appeal, it is likely that the main issues considered and reasons for refusal and dismissal may have been wider ranging. The current application should therefore be re-examined and subject to a broader review in light of this submission.

4. The application should be refused.

#### 4.3.9 North Harrow Waltonians Angling Society: [Objection]

I am writing to you as General Secretary of the North Harrow Waltonians Angling Society to raise our objections to the proposal.

We manage the fishing facilities on Springwell Lake and the River Colne and provide access to approx. 250 members and their families.

This is an area rich in wildlife and accessed by many people for recreation, Springwell Lake and environs are easily accessible through the permissive pathways that link up with the wider area of footpaths.

We object because:

- There is inadequate provision for waste and surface drainage placing water courses at significant risk of contamination.

- There is inadequate provision for monitoring, control and remedy of any pollution risk. Once a pollution event occurs, the impact can be irreversible.

- The developers may suggest that the development can be constructed so that it is not at risk of flooding in itself but that potentially just puts other areas at greater risk as the flood waters will still need to be accommodated, forcing more flood water elsewhere.

- Flooding will increase the risk of pollutants from the site contaminating drinking water and the wider area, given that excess water will be diverted into the Maple Lodge Ditch that could increase pollution risk to a much wider area.

- In the proximity to the development site, conservation efforts have reaped significant benefits, with an abundance of wildlife present. These measures will be reversed by this development. There is insufficient provision made for the bio diversity impact.

- The noise and light pollution on the area will be significant with no meaningful mitigation during construction and no long term shielding.

- If permitted the development will create an aberration on the landscape that will significantly detract from the openness of the Green Belt and the tranquillity of Springwell Lake will be permanently destroyed.

Anglers, walkers and bird watchers will no longer benefit from their quiet enjoyment of the area.

#### 4.3.10 The Chiltern Society: [Objection]

##### Flooding

Three Rivers by its very name suggests that this area where three rivers (and the Grand Union Canal) meet sees continual water flow through the area. We have been most fortunate in having considerable undeveloped land and lakes adjacent to the water courses on to which water can flood during high rain water events. Thus flooding has not been much of a problem in the area.

This should not lead to complacency. There is likely to be greater risk with much further development proposed for the area. The site developers for the warehouses proposal seem to dismiss flooding as a problem since the land concerned is not in flood zone 3. However the road past the site is known to flood for whatever reason. For example during April and May 2020 it was continuously flooded. We are told there have been improvements in the road drainage to mitigate this problem but we are not sure when this happened.

We would like to point out that the building of two warehouses and ancillary hard standing will remove the previous possibility of water draining into the soil of the site and some also being soaked up by plants. We are anxious about the volume of water likely to be diverted into the Maple Lodge Ditch which as its name implies is a small water course. It seems possible that the flooding problem will simply be diverted to a new site while the warehouses will be protected from flooding. We feel flood risk need further investigation.

##### Sewer Flooding

Regrettably Thames Water has a poor reputation in regard to this matter. For example: the Maple Lodge Conservation Society land has suffered from 3 episodes of sewage overflow in the past two years. This suggests that the sewers have inadequate capacity and will possibly be inadequate to cope with any extra discharge from the warehouse site.

Further upstream in Chesham sewage overflow in to the River Chess (which in Rickmansworth becomes the River Colne) has caused pollution rendering the river water unsafe for water cress growing and bathing which was a common pleasure for children in the summer. It is therefore most undesirable that there should be an increase of flow into the Maple Lodge sewers which would be inevitable should the warehouses be built.

##### Air Pollution

This was a major concern to us with the original application. The Covid-19 crisis has had the effect of reducing traffic in the Maple Cross area but should not induce a feeling of complacency in this matter. The Inspector in charge of the appeal against the refusal of a previous application only visited the site after lockdown so she did not see the traffic problems.

Children are once more attending the Reach Free school. The HS2 works down towards Denham has for a time reduced traffic on the A412 as there is only single line traffic and heavy traffic is avoiding this route. The extra traffic to and from warehouses would inevitably

increase air pollution levels. We note that regrettably Three Rivers Council do not at present monitor air pollution levels in Maple Cross.

#### 4.3.11 Colne Valley Fisheries (CVF): [Objection]

On behalf of the Colne Valley Fisheries Consultative (CVFC) I wish to object to the proposed development for employment land to the North of Maple Cross, Rickmansworth, Herts, WD3 9SN. TRDC Planning Application Reference No. 21/0573/FUL

The Colne Valley Fisheries Consultative represents over 30 angling clubs and fisheries and works with various partners to improve and enhance the habitats of the Colne Valley especially for fish in rivers and lakes and for the benefit of the wildlife and the public that visit the area.

We generally support the position taken on this by the numerous organisations and individuals that have commented - many of who have presented justified reasons why this proposal should be rejected.

In our opinion there remains an inadequate environmental impact assessment and there appears to remain a lack of understanding by the developer of the history of this site and the immediately surrounding land. The majority of the site is designated as flood zone 1.

The access road to this site has become so regularly flooded that it now has official signage to that effect warning drivers of the likely conditions. The flooding issue has blighted the area in fact since the 1990's during which time the old Thames Water sewage drying beds and underlying gravel were removed and, in that process, surface water mains that were broken through were buried and never capped or diverted. The area was then landfilled with out any real control and it is known to contain hazardous material because outline planning applications were aborted shortly after that time as remediation of the land was too difficult.

On the 25th April 2021 the site was visited and despite one of the coldest and driest Aprils on record the very site for the proposed warehouse development and the loop road surrounding it were under as much as 400mm water. The site adjacent that was the location of the old drying beds is similarly flooded at what was normal ground level. Only the 'cap' over the land fill is above the water level. The old Thames Water pumping station that pumped the water from this site to the Sewage treatment works remains completely flooded in the ground floor. What implications therefore already exist for groundwater contamination before any piling is undertaken? Since our objection to the original application that contained some of this information our investigations have led to the discovery that the storm drains we referred to may actually have been a stream in a culvert (historic maps indicate the stream) in at least one of the bores. The fact is that these open ends remain and are the only obvious reason for the continuous flooding in the area.

There remains a very high risk of groundwater contamination in this area with road run off, interaction with foul sewers and exposure to buried hazardous materials. It is clear that water will need to be continually removed from the site. There is no robust evidence that any actions or attenuation proposed would achieve the level of decontamination required for disposal to any of the fragile habitats and/or water bodies that may be the recipient

We do not consider that due regard has been given to the possibility of aquifer cross contamination and pollution during the construction process, We respectfully suggest that the significant risk to our natural water environment let alone the general blight, light and noise pollution should in itself be a determining factor in the decision on this proposal that should clearly be to reject.

We do not believe the concept of biodiversity net gain has been demonstrated or will be met.

Three Rivers Local Plan Development Management Policies document states:

Development should result in no net loss of biodiversity value across the District as a whole.... Development that would affect a site identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:

ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.

d) Development must conserve, enhance and, where appropriate, restore biodiversity through:

i) Protecting habitats and species identified for retention

ii) Providing compensation for the loss of any habitats

iii) Providing for the management of habitats and species

We request and expect an outcome that comprehensively rejects this application.

## **5 Reason for Delay**

5.1 To enable full consideration of the application.

## **6 Relevant Planning Policy, Guidance and Legislation**

### **6.1 National Planning Policy Framework and National Planning Practice Guidance**

6.2 In July 2021 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2021 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

### **6.3 The Three Rivers Local Plan**

The application has been considered against the policies of the Development Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP3, CP1, CP6, CP8, CP9, CP10, CP11 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM4, DM6, DM8, DM9, DM10, DM13 and Appendix 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. The

appeal site forms part of the Policy SA2 Site E(d) Maple Cross / Maple Lodge employment allocation.

#### 6.4 Other relevant policy guidance

Planning Practice Guidance (NPPG) (updated 2019).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act 2011 received Royal Assent on 15 November 2011. The Growth and Infrastructure Act 2013 achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2017 and the Natural Environment and Rural Communities Act 2006.

South West Herts Economic Study (2018) and Update (2019).

Hertfordshire's Local Transport Plan (adopted 2018).

## **7 Planning Analysis**

### 7.1 Background

7.1.1 The planning history of the site relevant to the appeal is set out in detail at section 1 above. The current application follows the refusal and subsequent dismissal at appeal of planning application ref. 19/1179/FUL. The application was refused for a number of reasons. The subsequent planning appeal was dismissed on 19.12.2019 in relation to reason for refusal 4 (groundwater). The appeal decision is discussed in more detail in the relevant sections of the analysis below. The proposed development remains the same as the refused application (LPA ref. 19/1179/FUL) and the dismissed appeal scheme in terms of scale, layout and massing, with only minor amendments to car parking layouts and entrances. Following the appeal dismissal the applicant has engaged with Affinity Water and further detailed technical assessment has been undertaken and submitted with the current application in response to the Inspector's decision.

### 7.2 EIA Screening

7.2.1 Three Rivers District Council adopted a Screening Opinion in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 on 4 November 2019.

7.2.2 This was based on a proposal for the development of two Warehouse Units (Class B1c / B2 / B8), comprising a total Gross Internal Area (GIA) of 16,140 square metres (including 1,986 square metres ancillary B1c office space), access, landscaping and associated works, at Development Site, Maple Lodge, Maple Lodge Close, Maple Cross.

7.2.3 The Council had regard to the information submitted and concluded that an Environmental Impact Assessment was not required for the development.

7.2.4 The current application includes a slight reduction in total GIA (16,115 square metres), however, the conclusions of the Screening Opinion are considered to remain valid.

### 7.3 Principle of Development

7.3.1 The application site is an undeveloped greenfield site located within an allocated employment area (E(d)) as set out in the Site Allocations LDD (adopted November 2014). This allocation removed the site from the Green Belt.

- 7.3.2 The application proposes the construction of two warehouses (Classes E(giii)/B2/B8) comprising a total of 16,115sqm, including 1,882sqm of ancillary E(gi) office space.
- 7.3.3 It is relevant to note that Changes to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations (“UCO”) were announced on 21 July 2020 and came into force on 1 September 2020. A new ‘Commercial, business and service’ use class (Class E) is created which incorporates the former B1 uses. Class E(giii) is the former Class B1c and Class E(gi) the former Class B1a. There are no changes to General industrial (B2) and Storage and distribution (B8) use classes. Reference in the Council’s adopted policies is to the former classifications.
- 7.3.4 Place Shaping Policy (PSP) 3 of the Core Strategy (adopted October 2011) requires that development in Secondary Centres, such as Maple Cross, will;
- c) Maintain and enhance employment opportunities in Secondary Centres but redistribute some employment floorspace through mixed use development in Kings Langley employment area and an extension in floorspace at Maple Cross/Maple Lodge.*
- 7.3.5 Policy CP6 of the Core Strategy advises that the Council will support development proposals that sustain parts of the District as attractive areas for business location. It also comments that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment uses within key employment areas.
- 7.3.6 Policy SA2 of the Site Allocations LDD (adopted November 2014) states that allocated employment sites will be safeguarded for business, industrial and storage or distribution uses.
- 7.3.7 The provision of E(giii), B2, B8 and ancillary E(gi) floorspace would increase the amount of employment floorspace within the district, whilst safeguarding the site for business, industrial, storage and distribution uses. The proposal would accord with above mentioned policies in this regard.
- 7.3.8 The South West Herts Economic Study (2018) indicates a need for 152,000sqm of B1c/B2 floorspace between 2018 and 2036 (8,600sqm per annum) and 329,500sqm of B8 (18,300sq m per annum) across the whole of South West Herts<sup>1</sup>. Of these amounts, it is estimated that in Three Rivers, there should be provision of 13,200sqm of B1c/B2 floorspace and 15,600sqm of B8 floorspace over the 2018-2036 period (or 700sqm of B1c/B2 floorspace and 900sqm of B8 floorspace per annum). This is estimated to require a land requirement of 3.3ha and 3.9ha respectively. The application proposes E(giii), B2, B8 uses to comprise the majority of this floorspace within the proposed development. The application site is an existing employment allocation which offers a suitable location to provide a proportion of the land required to meet these needs. It is therefore considered that the proposed development would contribute to meeting the need for floorspace set out in the South West Herts Economic Study (2018).
- 7.3.9 The proposed office floorspace is ancillary to these main uses. The South West Herts Economic Study estimates that 37,600sqm of office floorspace should be provided in Three Rivers over the period of 2018-2036 (equating to 1,700sqm per annum). The proposed office floorspace would contribute to meeting this need and would enable the efficient operation of the main uses and is therefore also supported by relevant policy.
- 7.3.10 In summary, whilst the objections, including regarding the need for employment space of this nature are noted, the South West Herts Economic Study (2018) identifies that there is a need for Class E(giii), B2, B8 and E(gi) floorspace within the district and the proposed development within an existing allocated employment site would contribute to meeting the

---

<sup>1</sup> The figures provided are based upon the Preferred Scenario from The South West Herts Economic Study (2018); this is the trends based scenario.

identified need. The proposal in this regard would therefore comply with Policies PSP3 and CP6 of the Core Strategy (adopted October 2011) and Policy SA2 of the Site Allocations LDD (adopted November 2014).

#### 7.4 Green Belt

7.4.1 As noted above, the development site is outside of the Metropolitan Green Belt, however the Green Belt does adjoin the eastern site boundary and a narrow strip outlined in red on the site location plan and linking to Maple Lodge Close to the south does fall within the Green Belt. No development is proposed within this strip, which is excluded from the proposed site layout plans. The proposed buildings, parking and servicing yards etc. are outside the Green Belt area, only the existing access road is within the Green Belt.

7.4.2 At paragraph 137 the NPPF states that;

*“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”*

7.4.3 Paragraph 138 of the NPPF continues;

*“Green Belt serves five purposes:*

*a) to check the unrestricted sprawl of large built-up areas;*

*b) to prevent neighbouring towns merging into one another;*

*c) to assist in safeguarding the countryside from encroachment;*

*d) to preserve the setting and special character of historic towns; and*

*e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

7.4.4 No buildings, parking or service yards to either of the units would be located within the Green Belt.

7.4.5 It is noted that the vehicular access to Unit 1 crosses a narrow strip of the Green Belt. Paragraph 150 of the NPPF states that *“Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.”* One of these is: *“b) engineering operations”*. The creation of this access given its limited size and scale would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt.

7.4.6 Although the buildings, parking areas and service yards are not located within the Green Belt it is necessary to consider whether they would harm the openness of the adjacent Green Belt. The fact that they would be viewed from the Green Belt does not equate to them being automatically harmful to openness. Although the site is currently free from built form and hard surfacing it is not within open countryside as there is built development to the north/north-west including large commercial buildings and there is also the Maple Lodge Treatment Works to the south.

7.4.7 The buildings would be set back from the eastern edge of the site with the Green Belt and, although the buildings would be large and there are extensive parking and hard surfacing areas, they would be close to existing buildings and would not be harmful to the openness of the adjoining Green Belt.

#### 7.5 Impact on Designated Heritage Assets

7.5.1 The application site lies to the north of Maple Lodge (known as Maple Lodge Farm), a Grade II Listed farmhouse which mostly dates from the 19<sup>th</sup> century although it does incorporate elements of an earlier 17<sup>th</sup> Century timber framed building. It is listed for its historic and architectural value. A former barn to the west of Maple Lodge Farm is also Grade II Listed.



The barn is believed to date from the 17<sup>th</sup> Century and has been converted to residential use.

7.5.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

*"In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

7.5.3 Paragraph 195 of the NPPF advises that:

*"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."*

7.5.4 Paragraphs 199 and 200 of the NPPF state that:

*"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

*"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."*

7.5.5 Paragraph 202 of the NPPF advises that:

*"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."*

7.5.6 The NPPG advises that public benefits may follow from many developments and can include the delivery of economic, social or environmental objectives as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.

7.5.7 Policy DM3 of the Development Management Policies LDD advises that the Council will preserve the District's Listed Buildings and that "Applications will only be supported where they sustain, conserve and where appropriate enhance the significance, character and setting of the asset itself and the surrounding historic environment."

7.5.8 The first edition OS map shows that Maple Lodge Farm was historically isolated, forming part of a larger network of farms and arable land within the rural Rickmansworth area. The submitted Heritage Statement demonstrates that the land historically associated with Maple Lodge Farm does not fall within the application site and the Listed Buildings lack a functional relationship with the site. It is also recognised that there is limited inter-visibility between the farmhouse and the application site due to the existing planting and hedgerow. Despite this, concerns were raised previously (application ref. 19/1179/FUL) that the proposed

development would still affect the settings of the Listed Buildings by introducing large scale buildings closer to the historic farmstead and further removing it from its historic context set within a relatively open landscape. However, as the site is limited in its contribution to the setting and significance of the listed buildings, it is considered that any harm rising would be at the low end of 'less than substantial' and it is therefore necessary to consider whether there are public benefits which outweigh the less than substantial harm.

- 7.5.9 The planning and appeal history is a material consideration and, therefore, the Inspector's conclusions in relation to impact on heritage assets are relevant. The Inspector found no harm to heritage assets, commenting at paragraph 117 of her decision that;

*"...I therefore do not agree that the proposal would further diminish the rural setting of Maple Lodge Farm or detract from the way in which the listed buildings are understood and experienced"*.

- 7.5.10 The Inspector noted that the proposed buildings may be noticeable to the occupants of Maple Lodge Farm, however, she did not consider that these limited views would detract from the architectural or historic significance of Maple Lodge Farm or Maple Lodge Barn.

- 7.5.11 Third parties present at the Appeal Hearing raised concerns regarding the effect of noise on a heritage asset. The Inspector acknowledged that some noise from vehicles using the application site may be noticeable, however, it would be at a low level and having regard to the historical use of the property as a farm, the Inspector did not consider that such noise would detract from the historic interest or significance of the property.

- 7.5.12 The Inspector concluded at paragraph 122 of their decision letter that;

*"The existing development in the locality of Maple Lodge Farm and Maple Lodge Barn, together with the domestic use of these properties has significantly harmed their setting. I have given careful consideration as to whether the proposed development would further detract from the significance and setting of these buildings, and I conclude that it would not"*.

- 7.5.13 In view of the fact that the Inspector found that the development would not harm the heritage assets, consideration of public benefits was not required.

- 7.5.14 In conclusion, whilst it is acknowledged that this is a new planning application submitted to overcome concerns arising from the appeal decision, the proposals, in terms of their impact on heritage assets are not considered to have changed materially and the heritage conclusions of the appeal Inspector are considered to be well founded. This is also acknowledged by the Council's Heritage Officer who raises no objections to the proposed development.

## 7.6 Character & Appearance (including impact on the landscape)

- 7.6.1 Paragraph 126 of the NPPF states that:

*"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities..."*

- 7.6.2 Paragraph 130 of the NPPF states amongst other things that:

*"Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

7.6.3 Paragraph 134 of the NPPF states that:

*“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes: and/or (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*

7.6.4 Policy CP1 of the Core Strategy (adopted October 2011) advised amongst other things that:

*“All development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to:*

*n) Promote buildings and public spaces of a high enduring design quality that respects local distinctiveness, is accessible to all and reduces opportunities for crime and anti-social behaviour”*

Whilst this criterion talks about buildings and public spaces it stresses the importance of design quality and local distinctiveness.

7.6.5 In accordance with the requirements of Policy CP12 of the Core Strategy (adopted October 2011) development should amongst other things:

*“a) Have regard to the local context and conserve or enhance the character, amenities and quality of an area.*

*d) Make efficient use of land whilst respecting the distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials”*

7.6.6 The combined width (north to south) of Units 1 and 2 would be 180 metres excluding the 3.8 metre spacing between them. The height of Unit 1 at its edge would be approximately 12.5 metres, with its roof sloping to a maximum height of 16 metres. Unit 2 would have a height of approximately 10 metres at its edge, increasing to a maximum of approximately 13 metres. Unit 1 would be sited between approximately 10 - 14 metres from the western site boundary. It is noted that the north-west corners of Unit 1 would sit close to the splayed northern site boundary. Unit 2 would be sited between 11 - 27 metres from the western boundary. Unit 1 would be sited between 35 and 41 metres from the access road to the east and Unit 2 would be sited between 40 and 51 metres from the access road. Three new vehicular accesses are proposed along the access road, with some trees retained between them. Some soft landscaping is proposed around the perimeter of the site, however, the space between the buildings and access road and between Unit 1 and the

northern site boundary would be largely occupied by hardstanding for service yards and car parks.

### ***Character***

- 7.6.7 In terms of land use, the area is mixed in character. To the east of the site are open fields. To the south west of the site are a number of residential roads including Longmore Close, Maple Lodge Close and Franklins. To the west of the site are a number of office buildings. Other uses in the nearby area are Maple Lodge Water Treatment Works and the Reach Free School.
- 7.6.8 In view of the variety of uses within the area and noting that the site is within an allocated employment site, the proposed uses would not be out of character within this mixed area.
- 7.6.9 The proposed buildings are large in terms of their footprint. However, the various commercial buildings to the west are also large. For example, Maple Cross House is 86 metres by 44 metres. The three buildings at The Rivers Office Park have a combined length of 97 metres facing Maple Cross House and 100 metres facing Hertford Place, although it is acknowledged that there are gaps between the individual buildings.
- 7.6.10 Therefore while it is acknowledged that the proposed buildings would be larger than these existing buildings, it could not be said that buildings with large footprints would uncharacteristic of development in the locality of the site.
- 7.6.11 The proposed buildings would have extensive service yards and car parking; however, Hertford Place, The Rivers Office Park and Maple Cross House all have extensive areas of car parking adjacent to the buildings and these car parks are on more than one floor.
- 7.6.12 As noted above, the height of Unit 1 at its edge would be approximately 12.5 metres, with its roof sloping to a maximum height of 16 metres. Unit 2 would have a height of approximately 10 metres at its edge, increasing to a maximum of approximately 13 metres. The buildings would be relatively tall; however, the heights would not be inappropriate for the proposed uses.
- 7.6.13 There are a range of building heights in the area, ranging from the 2-3 storey residential buildings in Longmore Close and Franklins to the taller commercial buildings and Reach Free School, although it is acknowledged that the latter is some distance from the site. Maple Cross House is a three storey building with a flat roof, the three buildings in The Rivers Office Park are also three storeys in height but have pitched roofs, and Hertford Place is four storeys in height. The site adjacent to Hertford Place on the corner of the A412 (Denham Way) and the access road has an extant planning permission for a four storey hotel between 14.5 and 20.5 metres in height. Whilst this building has not been constructed a Certificate of Lawfulness has been granted to confirm that the planning permission has been implemented.
- 7.6.14 Therefore it is considered that the heights of the proposed buildings would not be out of keeping with existing buildings in the locality and would be less than a building that could be lawfully constructed on an adjacent site.
- 7.6.15 In summary it is considered that the proposed uses, the scale of the proposed buildings, the site coverage by buildings and hard surfaced areas and the heights of the proposed buildings would not be demonstrably harmful to the character of the area and the pattern and form of development in the area.

### ***Layout & Appearance***

- 7.6.16 Beyond the west of the site is Maple Lodge Farm Ditch. As set out earlier in this section of the report the two units would be positioned between 10 and 27 metres from this

watercourse (apart from north west corners of Unit 1). The separation distances provided will ensure the buildings would not be cramped relative to the west boundary and also provides space for significant landscaping including tree planting and will ensure that the setting of the watercourse is not adversely affected. Unit 2 would be 11 and 16 metres from the south boundary which would ensure Unit 2 does not appear cramped relative to the south boundary.

- 7.6.17 The service yard to Unit 1 would be to the north of the building, it provides: areas for lorries to load and unload; parking for lorries; a lorry turning area; and refuse and recycling. The car parking is located to the east of the building between it and the access road and this area would provide car parking including accessible spaces and cycle parking. The entrance to the building for visitors and employees is located at the north east corner.
- 7.6.18 The service yard to Unit 2 would be to the east of the building between it and the access road, it provides: areas for lorries to load and unload; parking for lorries; a lorry turning area; and refuse and recycling. The car parking is also located to the east of the building and this area would provide car parking including accessible spaces and cycle parking. The entrance to the building for visitors and employees is located at the south east corner.
- 7.6.19 With regards to both units the entrances for visitors and employees are appropriately located. The accessible parking spaces are well located immediately adjacent to the entrances and are connected to them by footpaths. The cycle parking areas are also located close to the entrances which will encourage their use. The areas for refuse and recycling containers would be enclosed and are appropriately located within the service yards.
- 7.6.20 The layout of the site and the individual units and their associated car parks, service yards etc. is well considered and is acceptable.
- 7.6.21 Although they are different in size and orientation the two units would be similar in terms of their overall appearance and design features. Each unit has ancillary office accommodation. The entrance to both buildings for visitors and employees is marked by a glazed entrance feature almost the full height of the building. The office areas themselves have second and third floor windows along parts of the elevations. Each building would feature vehicle loading doors. Around the buildings are ground floor fire exit doors. Otherwise there will be no openings in the elevations of the buildings.
- 7.6.22 In terms of their roofs, both buildings would have two shallow pitched roofs, which is necessary given the depths of the buildings. Both buildings would have rooflights including to their internal facing pitches.
- 7.6.23 In terms of materials for the majority of the elevations of the buildings metal cladding is proposed with a half round profile. The cladding to the elevations would be in three bands of colour, with the darkest at the base. For the office elements of the buildings composite grey cladding is proposed. The roof would comprise of metal cladding.
- 7.6.24 The buildings are functional in terms of their design and appearance but this is neither inappropriate nor unacceptable given their proposed uses. The buildings largely comprise blank elevations that are broken up by loading dock doors to one side. The ancillary office accommodation has a greater area of glazing and the entrance to the buildings are marked by three storey framed glazed elements. These glazed elements serve to break up that part of those elevations and the mass and form of the units.
- 7.6.25 Although the pitched roofs increase the overall heights of the buildings, the shallowness of the roof pitches is such that the highest parts of the roofs are considerably set in from the edges of the buildings and would not be clearly perceptible when close to the buildings; although it is acknowledged that from further away they would be visible but their height relative to the elevations would be limited.

- 7.6.26 A common design approach has been adopted for both units, which would produce a coherent and consistent appearance. This approach, particularly when considered alongside the materials to be used (as discussed below) would produce a high quality design.
- 7.6.27 As set out above, some areas of cladding are profiled while others are flat on different areas of the buildings. The use of different profiles, together with the use of different colours would go some way to help reducing the mass and bulk of the buildings and is considered an acceptable approach to their external appearance.
- 7.6.28 The colour scheme would have graduated blocks of colour with a dark colour at the base and light colour at the top. In addition, there would be different coloured panels used to frame parts of the elevations to denote entrance points etc. Colour shades would graduate up the buildings from darkest at the bottom to lighter shades at the higher levels. The darker colour would have a heavier, more solid appearance helping to draw the eye down the buildings towards the ground, while the lighter colour would have a lighter appearance allowing the higher part of the buildings to sit better against the sky backdrop.
- 7.6.29 While the end user(s) is/are not known and they may have their own branding and colour palette it is proposed that a consistent material and colour scheme would be used for both buildings to ensure continuity. Future occupiers of the development would be required to apply for separate consent to secure the provision of advertising.
- 7.6.30 It is considered reasonable and necessary to impose a condition requiring samples of the external materials to be submitted in order to ensure that the materials are of appropriate quality and appearance and to ensure consistency of approach between the two buildings and their external areas. It is also considered necessary to impose a condition to control the installation of means of enclosure across the site so as to safeguard the ongoing external appearance of the development.
- 7.6.31 In summary, it is considered that the layout and appearance of the buildings is acceptable and would result in a high quality design solution as advocated by the NPPF and Policy CP12 of the Core Strategy (adopted October 2011).

#### ***Impact on views and the landscape***

- 7.6.32 In order to assess the visual impact of the development on various visual receptors and the character and appearance of the landscape the applicant has submitted a Landscape and Visual Impact Assessment (Landscape and Visual Appraisal Report, January 2021) (LVIA).
- 7.6.33 The LVIA assesses the impact of the development from 18 viewpoints, some of which are immediately adjacent to the site such as Longmore Close and the junction with the A412 (Denham Way), and others are further away such as Long Lane, Mill End and to the east of Springwell Lake.
- 7.6.34 The LVIA considers the impact on 3 types of receptor. These being residents, recreational users (eg. users of local footpaths and bridleways) and drivers. The LVIA considers public views from the adjoining residential areas. The LVIA considers the visual impact of the development on the landscape at two points in time: Year 1 (i.e. immediate post completion of the development and any landscaping), and Year 15 (i.e. when the development will have become an established part of the local area and landscaping will have matured).
- 7.6.35 The LVIA has been undertaken in accordance with the most up-to-date version of 'Guidelines for Landscape and Visual Impact Assessment' prepared by the Landscape Institute.
- 7.6.36 It is considered that the LVIA has been prepared using an appropriate methodology and the viewpoints chosen are also appropriate.

- 7.6.37 The LVIA considers that for the majority of the 18 viewpoints the impacts on the landscape would not be significant or adverse. This is for a number of reasons including the nature of the views (glimpsed views and only the upper part of the buildings would be visible) and intervening existing and/or proposed trees and other vegetation.
- 7.6.38 There are 2 viewpoints where the LVIA identifies that the impact of the development on the landscape would be much greater (Viewpoints 11 and 9). These are set out below.
- 7.6.39 Viewpoint 11 (Longmore Close). Being a residential location the sensitivity of this viewpoint is high. There are gaps in the existing trees along the west boundary of the application site, so there will be glimpses of the development through these gaps. At Year 1 the effects of the development would be significant. It is proposed to implement a landscaping scheme along this boundary including water tolerant trees that would be 4.5 – 5 metres high at day 1 e.g. when planted. By Year 15 the landscaping will have matured and will largely screen views of the development; therefore, it is considered that the visual effects of the development will not be significant.
- 7.6.40 Viewpoint 9 (Maple Lodge Close/Chiltern Sports and Social Clubhouse and Recreation Ground). The LVIA concludes that the effects on road users in Maple Lodge Close would not be adverse. However, the effects on views from the Clubhouse and Recreation Ground on users would be greater.
- 7.6.41 Being a location that will be used by a number of people, the sensitivity of this viewpoint is high. There are gaps in the existing trees along the south boundary of the application site, so there will be glimpses of the development through these gaps. At Year 1 the effects of the development would be significant. It is proposed to implement a landscaping scheme along this boundary including trees that would be 4.5 – 5 metres high at day 1 e.g. when planted. By Year 15 the landscaping will have matured and will screen views of the development, therefore the effects will not be significant.
- 7.6.42 There is one Viewpoint where the conclusions of the LVIA (Viewpoint 3) are not fully agreed as discussed below.
- 7.6.43 Viewpoint 3 (Junction of Denham Way (A412) and the access road). The most sensitive receptors at this viewpoint would be users of the footpath adjacent to the main road. There would be unobstructed views of the Unit 1, although there is a yellow hoarding around the site on the corner of the junction. At Year 1 the visual effects of the development would be moderate. At Year 15 the effects would not be significant. It is noted that the site behind the yellow hoarding has an extant planning permission for a 4 storey hotel between 14.5 and 20.5 metres in height; this consent has been implemented, although the hotel has not been constructed to date. The LVIA comments that the hotel and car park would screen views of the proposed development when completed; however, while the consent has been implemented there is no guarantee that the building will be completed. Therefore it is not considered that the potential screening that the hotel could provide is necessarily decisive in terms of the landscape impact.
- 7.6.44 Overall and on balance, however, the conclusions of the LVIA are agreed with regards to the assessment of the impact on the various viewpoints.
- 7.6.45 As part of the visual impact assessment the LVIA has considered the effects of night time illumination and considers that the existing conditions in the vicinity of the site correspond with Environmental Zone E3 'Medium district brightness areas (Small town centres or urban locations)'. The LPA agrees with this categorisation.
- 7.6.46 The LVIA also considers the impact on the landscape character of the area. The application site falls within the North Thames Basin (a national landscape character area) and the Colne Valley Gravel Pits (a regional landscape character area). The LVIA suggests that the main visual changes to the character of the landscape would occur at viewpoints in relatively

close proximity to the application site and this means that the extent of any perception of landscape change and the viewpoints from where this change would be perceived would be restricted to a localised area. The LVIA continues by maintaining that the change in character would be seen in the context of the adjoining land uses. The LVIA considers that the proposed development would not become a noticeable feature in the landscape and concludes that the level of change on the landscape character would be moderate to minor and not significant.

7.6.47 Officers agree with the conclusions of the LVIA with regards to the impact of the proposed development on views and on landscape character.

7.6.48 In summary, it is not considered that the proposed development would have an adverse visual impact on the landscape or an adverse impact on the character of the landscape.

### ***Character & Appearance (including impact on the landscape) – Conclusion***

7.6.49 Overall and on balance, although the buildings would be large and would be significant features, the scale, layout and design of the proposed development would be acceptable and would not have demonstrably harmful impacts on the character and appearance of the street scene, the general locality or the wider landscape. The proposed development would represent the quality of design sought by the NPPF and Core Strategy and would be acceptable in this regard.

### **7.7 Impact on Amenity**

7.7.1 Paragraph 130 of the NPPF advises that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

7.7.2 Policy CP6 of the Core Strategy (adopted October 2011) advises that the Council will support development that sustains parts of the District as attractive areas for business.

7.7.3 Policy CP12 of the Core Strategy (adopted October 2011) states that the Council will expect development proposals to protect residential amenities.

7.7.4 There are no residential neighbours to the immediate north or east of the site. To the east are open fields and to the north, the application site adjoins Witney Place, Denham Way where planning permission was granted in 2007 (07/1401/FUL) for the erection of a four-storey hotel. This consent has been implemented, but not built out to date. The approved layout includes parking to the rear (southern) boundary of this site where it adjoins the application site and service yard of Unit 1. The proposed development of the application site would not be of detriment to or impact on the ability to build out the adjacent permission.

7.7.5 The closest residential neighbours are located to the west and south on Maple Lodge Close and Franklins and Longmore Close, which are accessed via Maple Lodge Close. The closest neighbour is No. 19 Longmore Close. This is a two-storey end of terrace dwelling that is orientated with its eastern flank elevation running roughly parallel with the western boundary of the application site. There are no first floor flank windows. To the rear of the dwelling is a raised deck with steps down to the remainder of the garden that is laid to lawn and extends to the rear and around the side of the dwelling. The dwelling does not have any boundary treatment marking its eastern boundary, with the Maple Lodge Farm Ditch that runs between No. 19 and the application site forming the boundary.

### ***Overshadowing/Loss of Light/Visual Impact***



- 7.7.6 Unit 1 would be located to the north of the site with Unit 2 to the south sited approximately 25 metres from the dwelling at No. 19 Longmore Close at the closest point (rear corner of dwelling). Unit 2 would have a width (north to south) of 97 metres. A distance of approximately 3.8 metres would separate Unit 1 and Unit 2. The combined width (north to south) of Units 1 and 2 would be 180 metres. The height of the building closest to the boundary would be approximately 10 metres, with the roof sloping to a maximum height of 13 metres. The shallow nature of the roof is such that the higher element would be set well off all site boundaries. Unit 1 would be higher with a haunch height of 12.5 metres and maximum height of 16 metres, however, Unit 1 would be located over 70 metres from the closest residential neighbour.
- 7.7.7 Guidance within Appendix 2 of the Development Management Policies LDD (adopted July 2013) suggests a minimum back-to-back distance of 28 metres in the case of two-storey buildings backing onto each other. This guidance is provided in the 'privacy' section of the design guidelines and is stated as being in "in the interests of privacy and to prevent overlooking" and does not relate to consideration of overshadowing or loss of light. In addition to the fact that it relates to privacy, it is important to note that the relationship between the existing residential neighbours (Longmore Close) and proposed buildings would not be a back-to-back relationship. Similarly, Appendix 2 relates specifically to design guidelines for residential development and there are no specific guidelines of this nature relating to separation distances between commercial and residential properties.
- 7.7.8 Whilst the Appendix 2 guidelines are not directly applicable, it is noted that there would be a distance of approximately 34 metres between the front (south-east) corner of 19 Longmore Close and the south-west corner of Unit 2; a distance of approximately 25 metres between the rear (north-east) corner of 19 Longmore Close and the western flank elevation of Unit 2, and a distance of approximately 73 metres from the rear (north-east) corner of 19 Longmore Close and the south-west corner of Unit 1.
- 7.7.9 For the previous application (ref. 19/1179/FUL) an illustrative section showing the relationship with Longmore Close was submitted which demonstrated that the proposed development would be lower than a 45 degree line of sight. To assist in assessing the impacts on neighbouring sites in terms of overshadowing and loss of light, a sunlight analysis was also undertaken and submitted during the consideration of the previous application. It is noted that the height and footprint of Unit 2 was reduced during the consideration of the previous application and that the sunlight analysis was undertaken prior to these amendments (reductions) having been made. The sunlight analysis included 3 views where the existing and proposed conditions had been modelled at 2 hour intervals from 9am to 5pm on 21<sup>st</sup> March, June, September and December. The sunlight analysis demonstrated that as a result of the proposed height and massing and siting to the north east of the existing residential properties on Longmore Close, the impact of the proposed development would not be significant or harmful, particularly when the sun is at its lowest and at its highest points during the year. As noted above, notwithstanding the conclusions of the sunlight analysis, Unit 2 was reduced in footprint and height in any case.
- 7.7.10 There is existing planting along the western site boundary that is proposed to be supplemented as part of the application. Vegetation cannot be relied upon to provide screening; however, due to its extent it would provide a degree of screening and would soften the appearance of the development when viewed from Longmore Close. A long term landscape management plan could be secured via condition. It is not disputed that the development would be clearly visible and that the outlook of residents to the west would change; however, the separation distance is such that it is not considered that the proposed buildings would result in demonstrable harm to existing outlooks through visual impact and the buildings would not appear overbearing.
- 7.7.11 The planning and appeal history is a material consideration, similarly there have been no changes to the height or siting of the proposed Units since the previous application was refused and dismissed at appeal and therefore the following conclusions of the previous

Appeal Inspector in relation to impact on the living conditions of occupiers of 19 Longmore Close are considered to carry significant weight:

*67. Due to the location of the proposed building to the east of the flank boundary it would be clearly visible and the outlook of the occupants of 19 Longmore Close would change. The impact on views from the house would be more limited, but from within the garden there would be a loss of view over open land of the appeal site. The existing vegetation along the boundary would provide some screening, and it is proposed to supplement this as part of the landscape scheme. This would filter views of the proposed building. The suggested conditions include the submission of a landscape management plan which would ensure that the planting would remain in the long term.*

*68. As noted by the appellant, the siting of the proposed buildings is comparable to the existing context and relationships between the employment and residential areas. In particular, the Skanska building is situated 18.3m from the facing flank of the nearest residential properties, and is closer to the rear of the gardens of the residential properties in Franklins by comparison with the appeal scheme.*

*69. In general, the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on a view from a neighbouring property, are not generally regarded as a material planning consideration. Having regard to the distance and position of the proposed building in relation to the flank boundary of 19 Longmore Close, I consider that although it would be visible there would be sufficient separation to avoid an overbearing effect on the outlook of the occupants.*

*70. The submitted sunlight analysis includes 3 views where the existing and proposed conditions have been modelled at 2 hour intervals from 9am to 5pm on 21st March, June, September and December. The sunlight analysis was undertaken prior to amendments to Unit 2 and therefore the impacts shown would be greater than with the appeal scheme. The appeal site is situated to the north west of Longmore Close and as such the proposal would not add significantly to the existing overshadowing.*

*71. I therefore conclude that although there would be a change in outlook for the occupants of 19 Longmore Close, the proposal would not harm their living conditions and would not conflict with Core Strategy policy CP12 which seeks a high standard of design.*

- 7.7.12 In conclusion, it is considered that the proposal would not result in levels of overshadowing, loss of outlook or loss of light to justify the refusal of planning permission.

### **Overlooking**

- 7.7.13 Doors and windows are largely located to the northern and eastern elevations of Unit 1 and eastern and south-eastern elevations of Unit 2 where they would overlook the proposed car parking and service areas. Fenestration to the western elevation is limited to rooflights and a single emergency access at ground floor level. The height of the rooflights and their position in the shallow sloping roof is such that they would not facilitate overlooking. There would be 2 ground floor emergency access doors in the rear (west) elevation of Unit 2. This elevation is located between 11 and 27 metres from the western site boundary with additional planting proposed between the building and boundary. Their number, ground floor nature and spacing is such that it is not considered that overlooking would be facilitated.

### **Pollution - Noise Impact**

- 7.7.14 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

*(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

7.7.15 Policy DM9 of the Development Management Policies LDD (adopted July 2019) sets out that planning permission will not be granted for development that has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development, has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation.

7.7.16 The Units and their servicing and car parking areas have been laid out so that the service yard for Unit 1 is on the northern side and the service yard for Unit 2 is on the eastern side.

7.7.17 An initial Noise Impact Assessment prepared by Cole Jarman (19/0333/R2) was submitted with the application. The assessment concluded that the operational noise from the scheme with the operational assumptions made would be considered to be at or below the Lowest Observable Adverse Effect Level (LOAEL). This is defined as a situation where;

*“Noise can be heard and causes small changes in behaviour and/or attitude, eg. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise.*

*Potential for some reported sleep disturbance.*

*Affects the acoustic character of the area such that there is a perceived change in the quality of life”.*

The report considers that the positioning of the service yards allows the warehouse buildings to screen most noise from the service yards to the nearest residential dwellings as well as other surrounding properties.

7.7.18 The report concludes, that noise should not be considered a reason to impede the approval of the planning application.

7.7.19 The Noise Impact Assessment was reviewed by Environmental Health colleagues who raised no initial objections, however, following receipt of a Noise Report from the Residents Association (prepared by Cass Allen ref. LR01-21247-R0) and additional information provided by the applicant (RSK Acoustics, ref. 19/0333/M02 Rev 1) in response to this, Environmental Health were asked to review/provide further comments.

7.7.20 Environmental Health note that the key discussion point is on the methodology and assumptions made particularly around whether a background assessment should be undertaken or absolute sound levels used. There are considered to be arguments for both methods to be used and it depends on the relevant documents used. Whilst previous versions of BS4142 define some terms the current version does not and refers to other documents including WHO guidance and Planning guidance.

7.7.21 Environmental Health comment that when assessing the matter from the perspective of the Local Authority, they would argue that the primary focus of a noise assessment is to protect residents and ensure that any potential impact on the environment is considered. With regard to the consideration of the properties to the east of the site, whilst the reasoning submitted by the applicant is reasonable, Environmental Health consider that it would be prudent to demonstrate that by assessment prior to the site being brought into use. As such they recommend that the condition proposed by Cass Allen be included as this would give greater protection to the existing environment. The condition would ensure that prior to the operation of the site by any prospective tenant, a noise assessment that demonstrates that the rating noise level from any fixed or mobile mechanical plant or commercial activity including all noise associated with deliveries and vehicle movements shall not exceed the

background sound level representative of the period being assessed at noise sensitive receptors, is submitted to and approved in writing by the Local Planning Authority. It is not considered appropriate for the condition to be worded 'prior to commencement' as until a tenant has been confirmed for the site and the expected operation known, any assessment would have to be based on reasonable assumptions and therefore would not satisfy the intent of the condition.

7.7.22 In addition, the Noise Impact Assessment makes assumptions regarding there being no refrigerated HGVs and no tug units. It is considered reasonable and necessary to impose appropriately worded conditions to this effect to ensure that noise resulting from the operations at the site does not have an adverse impact on amenity.

7.7.23 In summary, in view of the specialist advice received, it is considered that there would be no adverse impacts with regards to noise as a result of the development. The proposed development complies with the NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013) in this regard.

### ***Pollution - Light***

7.7.24 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

*(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

7.7.25 Policy DM9 of the Development Management Policies LDD (adopted July 2013) states in relation to lighting proposals, that development proposals which include external lighting should ensure that:

- i. Proposed lighting schemes are the minimum required for public safety and security*
- ii. There is no unacceptable adverse impact on neighbouring or nearby properties*
- iii. There is no unacceptable adverse impact on the surrounding countryside*
- iv. There is no dazzling or distraction to road users including cyclists, equestrians and pedestrians*
- v. Road and footway lighting meets the County Council's adopted standards*
- vi. There is no unacceptably adverse impact on wildlife*
- vii. Proposals in the vicinity of habitats and habitat features important for wildlife ensure that the lighting is sensitively designed to prevent negative impacts on use of these habitat features.*

7.7.26 Details of external lighting are not included with the application. The submitted Planning Statement states that details of the proposed lighting scheme would be provided by way of planning condition. The Planning Statement comments that lighting will be limited to areas located to the north and east of Unit 1 and east of Unit 2 and would therefore be screened from residential properties to the west by the proposed buildings. External lighting to the rear of the buildings closest to the residential neighbours would be limited to low level emergency lighting only.

7.7.27 It is considered reasonable and necessary to require details of all external lighting to be submitted for approval to enable full assessment against the criteria of Policy DM9 set out above.

7.7.28 In summary, it is considered that subject to the imposition or appropriate conditions the lighting of the site would not be likely to give rise to adverse impacts with regards to light as a result of the development. The proposed development, accordingly, complies with the

NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

### ***Pollution - Air Quality***

7.7.29 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

*(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

7.7.30 The NPPG provides guidance as to when air quality would be relevant to a planning decision. In summary, it states that when deciding whether air quality is relevant to a planning application, considerations could include whether the development would, amongst other considerations:

- *Significantly affect traffic in the immediate vicinity of the proposed development site or further afield.*
- *Introduce new point sources of air pollution eg. furnaces.*
- *Give rise to potentially unacceptable impact (such as dust) during construction for nearby sensitive locations.*

7.7.31 In relation to air quality, Policy DM9 of the Development Management Policies LDD (adopted July 2013) advises that development will not be permitted where it would:

- i. Have an adverse impact on air pollution levels, particularly where it would adversely affect air quality in an Air Quality Management Area and/or*
- ii. Be subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.*

7.7.32 The application site is not within an Air Quality Management Area.

7.7.33 An Air Quality Assessment prepared by BWB Consulting Ltd (Report ref. LNT2082-001) has been submitted with the application. The submitted reports deal with two aspects of potential air pollution: dust during construction and increased traffic resulting from the proposed development.

7.7.34 With regards to dust during construction, a qualitative construction phase dust assessment has been undertaken in accordance with the IAQM Guidance on the assessment of dust from demolition and construction. It is noted that no demolition is proposed; however, there would be earthworks, etc. The report proposes various mitigation measures during construction works and the report concludes that with these mitigation measures in place, the residual impacts from the construction phase are considered to be 'not significant'.

7.7.35 The report notes that the greatest increase in traffic on roads where existing sensitive receptors are present (on the A412 Denham Way, south of the site access road) is below the assessment criteria set out in the IAQM and EPUK guidance. As such the report concludes that the impact on local air quality as a result of additional traffic would be insignificant and detailed dispersion modelling of development generated road traffic would not be required.

7.7.36 The Environmental and Protection Officer has considered all of the submitted information. They agree with the methodology and the approaches to dust and traffic impacts. They also agree with the findings of the report and that there would be no adverse impact on air quality as a result of the development.

7.7.37 The Environmental and Protection Officer recommends informatives relating to: the use of Euro 6 vehicles where possible, and following relevant guidance such as the IAQM guidance.

7.7.38 In summary, in view of the specialist advice received, it is concluded that there would be no adverse impacts with regards to air quality as a result of the development. The proposed development in this respect complies with the NPPF (2021) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

## 7.8 Trees and Landscaping

7.8.1 The site contains a number of trees, predominantly located around the edges of the site, a number of which are formally protected by Tree Preservation Order (TPO) 493 which comprises A1 (a group of Alder along the eastern boundary) and A2 (several Oak, Hawthorn, Sycamore and Ash trees along the southern boundary). An Ash Tree (T73) is also protected. The most visually important trees are the Alder located along the eastern boundary.

7.8.2 Paragraph 174 of the NPPF advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

7.8.3 In ensuring that all development contributes to the sustainability of the District, Policy CP12 of the Core Strategy (adopted October 2011) advises that development proposals should:

*i) Ensure that development is adequately landscaped and is designed to retain, enhance or improve important existing natural features; landscaping should reflect the surrounding landscape of the area and where appropriate integrate with adjoining networks of green open spaces.*

7.8.4 Policy DM6 (Biodiversity, Trees, Woodlands, Watercourses and Landscaping) of the Development Management Policies LDD (adopted July 2013) advises that development proposals for new development should be submitted with landscaping proposals which seek to retain trees and other landscape and nature conservation features. Landscaping proposals should also include new trees to enhance the landscape of the site and its surroundings as appropriate.

7.8.5 The application is accompanied by a Tree Survey and Arboricultural Impact Assessment prepared by Greengage (February 2021). The submitted report identified that 70 trees and tree groups ranging from Category B to Category U were recorded (these categories consider the quality and value (non-financial) of trees with Category A trees being the highest in terms of quality and value).

7.8.6 The previous application (ref. 19/1179/FUL) originally proposed the removal of 30 trees (4 Category B, 10 Category C and 16 Category U trees) to facilitate the proposed development. Outline landscaping proposals were also submitted to show new tree planting along the eastern and western boundaries to compensate for those lost. In response to objections raised from the Council's Landscape Officer the access to Unit 1 was amended during the course of the previous application in order that an additional 3 trees could be retained (27 trees to be lost comprised of 4 groups and 23 individual trees). An amended landscape strategy was also submitted which proposed planting of 46 new trees to the perimeter of the site to supplement the retained vegetation. Notwithstanding the above, the Landscape Officer maintained their objection to the application due to loss of trees and likely detrimental impact on retained trees and the application (ref. 19/1179/FUL) was refused on that basis.

7.8.7 During the appeal process further amendments were made to the access and parking arrangements and these amended plans were accepted by the Appeal Inspector who determined the appeal on that basis.

- 7.8.8 The Inspector concluded that the differences between the parties in relation to the categorisation of the trees no longer had implications, and that the calculation of the Root Protection Areas (RPAs) within the submitted tree schedule had been carried out on the correct basis. The Inspector concluded that the use of a cellular confinement system would appropriately protect the existing trees and that a detailed Arboricultural Method Statement could be secured by condition to safeguard the trees during construction. Accordingly, the Inspector concluded that the proposal would not have an unacceptable effect on the trees on the site and would comply with policy.
- 7.8.9 Turning to the current application, this includes further minor amendments to the access and car parking layouts to further reduce the impact on RPAs which has resulted in the retention of additional trees. The current application proposes the removal of 10 trees (4 groups and 6 individual trees), with all trees to be removed either Category C or U trees.
- 7.8.10 The submitted Landscape Strategy would result in 46 new trees to supplement existing retained trees and reflects the Landscape Strategy considered at the time of the previous appeal.
- 7.8.11 The Council's Landscape Officer has reviewed the current application. They note that the submitted tree report indicates that a small number of poor quality trees would be removed to facilitate the development. However, this is substantially less than was proposed in a previous application for the site. They note that whilst the previous application was dismissed at appeal, the Inspector made clear in the decision that the impact on trees was not a reason for dismissal and that the impact had been reduced during the planning process. The Landscape Officer notes that the remedial landscape plans submitted for this application indicate that a substantial number of replacement trees would be planted, following development. They raise no objection to the development on tree grounds, subject to appropriate conditions including in relation to the implementation and maintenance of the landscaping scheme.
- 7.8.12 In summary, the development would result in the loss of a small number of poor quality trees. This loss would be mitigated by additional planting (46 new trees) to supplement retained trees. The submitted details demonstrate that existing trees to be retained could be adequately protected. As such the development is considered to comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011), Policies DM1, DM6 and Appendix 2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2021).

## 7.9 Highways & Access

- 7.9.1 Paragraph 110 of the NPPF advises that;

*In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*b) safe and suitable access to the site can be achieved for all users;*

*c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*

*d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 7.9.2 Paragraph 111 of the NPPF states that '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.
- 7.9.3 All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed (paragraph 113 of the NPPF).
- 7.9.4 Policy CP1 of the Core Strategy (adopted October 2011) advises that in ensuring all development contributes to the sustainability of the District, it is necessary to take into account the need to reduce the need to travel by locating development in accessible locations and promoting a range of sustainable transport modes.
- 7.9.5 Policy CP10 (Transport and Travel) of the Core Strategy (adopted October 2011) advises that all development should be designed and located to minimise the impacts of travel by motor vehicle on the District. Development will need to demonstrate that:
- i) It provides a safe and adequate means of access*
  - j) It is appropriate in scale to the existing infrastructure...*
  - k) It is integrated with the wider network of transport routes...*
  - l) It makes adequate provision for all users...*
  - m) It includes where appropriate, provision for public transport either within the scheme or through contributions*
  - n) The impact of the proposal on transport has been fully assessed...*
  - o) The proposal is accompanied by a draft Green Travel Plan*
- 7.9.6 The application was accompanied by a Transport Assessment (TA), Construction Logistics Management Plan (CLMP) and Framework Travel Plan. The TA having been updated from the previous application (ref. 19/1179/FUL) taking into consideration the original TA and subsequent TA Addendum. During the course of the application HCC as Highways Authority (HCCHA) requested additional information be provided in relation to the permitted hotel development located on the corner of the private access road and Denham Way. This was submitted in the form of a Transport Note (TN) dated 7/5/2021 prepared by BWB Consulting.
- 7.9.7 The submitted details have been reviewed by HCCHA who do not wish to restrict the grant of planning permission subject to a number of planning conditions. This is discussed in more detail below.
- 7.9.8 In terms of the existing access, the site is approximately 1.5km from junction 17 of the M25. The site is approximately 220m from its north-eastern corner to the highway on Denham Way and accessed via a priority T-junction with Denham Way (with a right turn lane provided for vehicles turning into the private road when travelling north along Denham Way) and then a private access road. Denham Way is a single-carriageway road and designated as a classified A (A412) main distributor road, subject to a speed limit of 40mph within the vicinity of the junction and is highway maintainable at public expense. There is a shared cycle way/footway on the eastern side of Denham Way; a pedestrian only footway on the western side and a signal controlled pedestrian crossing approximately 40m south of the T-junction. There is a pedestrian footway on the south side of the private access road leading to the site, which is not part of the highway, although HCCHA noted at the time of their site visit that vehicles were parked on much of the length of the private footway.

### ***Trip / Traffic Generation***

- 7.9.9 As the site is currently unoccupied, existing trip data has not been provided. HCCHA consider this acceptable.



- 7.9.10 The TRICs (Trip Rate Information Computer System) database has been used to determine the anticipated traffic levels (including vehicle trip rates) for the proposed use (and is included as part of the submitted TA). During pre-application discussions with HCCHA a Scoping Note was developed and agreed which outlined the anticipated trip generation of the proposed development based on a gross floor area (GFA) of 15,500sqm and a Class B8 land use. The applicant applied the 85th percentile trip rate from the survey sites selected in TRICs to the GFA of the proposed development (rather than using an average of all the sites in the TRICS database, in this instance the applicant has only used those sites at the higher end of the trip generation scale, "the 85<sup>th</sup> percentile"). HCCHA did note that the TRICs reports are dated 2017 and are therefore 4 years old. An interrogation of TRICs shows that there are new surveys and on this basis it would be appropriate for the TRICs reports to be updated as there are new sites in TRICs to be considered and the search site should exclude Greater London (currently included). However, notwithstanding this, HCCHA have undertaken their own TRICs interrogation to corroborate the results and the 85th percentile AM and PM peak hour trip rates are the same in HCC's interrogation as those presented in the TA and HCCHA therefore consider the approach to be acceptable. These are:
- AM Peak:*
- *Vehicle driver (per 100sqm): 0.634 arrivals, 0.083 departures resulting in 0.717 two-way trips*
  - *Vehicle driver (15,500 sqm): 98 arrivals, 13 departures resulting in 111 two-way trips*
- PM Peak:*
- *Vehicle driver (per 100sqm): 0.055 arrivals, 0.607 departures resulting in 0.662 two-way trips*
  - *Vehicle driver (15,500 sqm): 9 arrivals, 94 departures resulting in 103 two-way trips.*
- 7.9.11 The applicant has used the same trip rates to calculate trip generation for the gross floor area of the current proposal. In the TA this figure is 16,570 sqm. The application proposes a slightly lower figure of 16,115 sqm, however, the difference is not considered material and in any case the trip rates have been calculated on the higher figure. As previously noted, the applicant has used sites within Greater London and surveys conducted prior to September 2017 to derive the original trip rates. This is considered by HCCHA to be acceptable due to the use of 85th percentile AM and PM peak hour trip rates, as opposed to the average trip rate.
- 7.9.12 The TRICS database which has been used to estimate the potential trips created by the proposed development outlined approximately 119 and 110 vehicle trips within morning (8-9am) and evening (5-6pm) peak hours respectively. The results which have been obtained from traffic survey at the junction outline total existing vehicle movements of 2,333 and 2,458 vehicles within these peak periods. Therefore, the estimated potential trips created by the proposed development would result in an increase of traffic of 5% during these hours.
- 7.9.13 Data has also been analysed for extended peak periods of 7-10am and 4-7pm. The TRICS database showed 201 and 229 potential trips during these extended periods. The traffic survey data outlined total existing movements of 6,336 and 6,123 during the extended am and pm peaks respectively. The potential trips created by the development would result therefore in an increase in traffic of 3% (am extended peak) and 4% (pm extended peak).
- 7.9.14 The data provided can also be used to forecast potential two-way trips for a 24 hour period:
- HGVs 132 two-way trips / LGVs/LVs 773 two-way trips, resulting in a total of 905 two-way trips.
- 7.9.15 HCCHA consider that the methodology used is robust and the results have been verified in TRICs by HCCHA. HCCHA note that the actual figure would most likely be lower due to the

use of the 85th percentile rather than the mean, which provide a lower figure. The TA (and the methods within) would therefore be the normal method under which the trip generation would be robustly reviewed and assessed.

- 7.9.16 It is acknowledged that concerns have been raised by residents regarding trip figures provided in the Transport Assessment not corresponding to trip figures provided in the Noise Assessment. Whereas trip figures in the Transport Assessment are based on GFA, figures in the Noise Assessment are provided per unit. The Noise Assessment notes that the number of vehicles accessing and leaving the site on an hourly basis (two-way trips) has been provided by the Transport Consultant and that this number has been halved and rounded up to provide figures for each unit. Therefore a figure of 5 in the Transport Assessment would become 6 in the Noise Assessment ( $5 / 2 = 2.5$ , rounded up to 3 per unit and 6 in total). The figures in the Noise Assessment relate specifically to the methodology for that assessment and in considering the highways implications, regard should be had to the figures in the Transport Assessment as set out above.
- 7.9.17 As noted above, a Transport Note (TN) has been provided to include details of the permitted hotel. The TRICs database has been used to determine the predicted vehicle trip rates for the hotel. The anticipated traffic generation for the hotel is:

*AM Peak (0800-0900):*

*- Total Vehicle trips (total based on number of bedrooms): 103 arrivals, 79 departures resulting in 182 two-way trips.*

*PM Peak (1700-1800):*

*- Total Vehicle trips (total based on number of bedrooms): 32 arrivals, 77 departures resulting in 109 two-way trips.*

- 7.9.18 HCCHA consider the vehicular trip rates to be robust in order for a full assessment of the impact on the surrounding highway network to be made.

### ***Impact on the surrounding Highway Network & Junction Modelling***

- 7.9.19 Baseline traffic flow data is used (which is actual recorded data not assumed) for existing traffic flows and the directional distribution of these flows on the surrounding highway network. The parameters for the necessary area, scope and duration of baseline traffic data was agreed between HCCHA, Highways England and the applicant at the pre-application stage. As part of the assessment of the TA, HCCHA evaluates whether or not the baseline data used is sufficient and in accordance with any previous pre-app discussions. HCCHA also uses any of its own available traffic model data, recorded traffic flow data and accident data to assess and verify any submitted data in addition to identifying any known capacity or safety issues on the surrounding highway network.
- 7.9.20 The baseline data used for this application includes manual classified counts and existing baseline surveys from other sources (including data recorded and held by HCCHA). This baseline data would include existing traffic flows on the surrounding highway network including traffic from the Thames Water site; Hertford Place, Woodoaks Farm and any other existing uses.
- 7.9.21 Growth factors have then been used to determine suitable future growth rates for the recorded baseline traffic flows i.e. take into consideration any predicted future increase in the levels of traffic on the highway network. For this application future assessment years of 2022 and 2031 have been used and therefore HCCHA has assessed the acceptability of the proposals in the context of the baseline data and future assessment years to ensure a robust assessment of the any impacts.
- 7.9.22 HCCHA consider that the baseline data, assessment years and growth factors used in respect of this application are sufficient and acceptable.

- 7.9.23 With regards to the flow of traffic to and from the site, the application has not assumed that all traffic would access the application site via the M25. The submitted TA and subsequent TN take into consideration that a proportion of development traffic would access the site via the A412 to and from the south and the junction modelling included in the TA and TN reflect this. For example, the traffic flows in the TA show between 23% and 27% of development traffic would turn left in the peak hours when exiting onto the A412 (i.e. the direction of Maple Cross and not the M25). Furthermore the submitted TN shows that the baseline traffic flows + committed development (including the hotel) + proposed development + 2031 growth factors show a percentage flow of traffic from the south-west to and from the private access road (i.e. the direction of Maple Cross and not the M25) of between 20% to 26% for the AM and PM peak hours, which is consistent with this. This is considered to be reasonable and robust when taking into consideration that the 2031 model incorporates baseline (i.e. actual measured flows) in addition to the committed and proposed development, the status of Denham Way as part of the A road network and the close proximity of the site to the M25.
- 7.9.24 An assumed opening year (2022) and 2031 assessment of the local highway network have been completed as part of the TA and subsequent TN, which is an acceptable scope to assess the current and future impacts of the development on the surrounding highway network. PICADY (for priority junctions), ARCADY (for roundabouts) and LinSig (for traffic signalized junctions) model assessments have been prepared for the A412 / private site access road T-junction; M25 J17 and Maple Cross roundabouts and included as part of the TA. The junctions have been modelled using baseline traffic data, committed developments (including HS2 and the Reach Free School), TEMPRO growth factors and the above TRICs vehicle trip rates. The models take into consideration the actual features and constraints of a junction and therefore reflect how existing junctions work and how any design proposals would operate if implemented.
- 7.9.25 The model results for the Maple Cross roundabout and M25 J17 illustrate that the junctions would continue to operate within capacity in 2031 (including committed development) and are therefore considered acceptable by HCCHA. A LinSig model has been used to assess the performance of the existing signalised Chalfont Road / Denham Way / Maple Lodge Close junction and the results in the submitted TA show that the junction works within capacity.
- 7.9.26 HCCHA comment that Highways England would also need to be satisfied, specifically for the M25 junction. In that regard it is noted that Highways England have been consulted on the application and raise no objection subject to conditions.
- 7.9.27 A Junctions 9 PICADY assessment has been included in both the TA and the TN to assess the operation of the existing A412 / site access road ghost island priority-controlled junction, which would provide access to both the consented hotel and the proposed warehouse development. The results identify significant capacity issues when using the current layout of the junction. Consequently, off-site highway works at this junction have previously been deemed necessary for the proposed warehouse development (and agreed in principle) and would have the additional benefit of improving the access arrangements for the permitted hotel (proposed access discussed below in more detail).
- 7.9.28 A LinSig model assessment has been carried out to assess the performance and functioning of the proposed signalization of the A412/site access junction, which is part of the proposed off-site highway works. The proposed signalized junction has been modelled using baseline traffic data + committed developments (including HS2, the Reach Free School and hotel), TEMPRO growth factors to 2031 and the above TRICs vehicle trip rates in the AM and PM peak.
- 7.9.29 HCC as HA has reviewed the LinSig modelling methods used in the TN, the approach of which reflects the 2031 trip rates and proposed highway junction layout. The methods used would be the standard way of presenting and assessing a proposed signalized junction and

are therefore considered acceptable in this respect. The results of the LinSig modelling for all lanes/links of the proposed signalized junction show that the Degree of Saturation (DoS) (which is defined as the ratio of flow to capacity for a lane) is acceptable (at a level of below the recommended 90% for all arms/lanes) and the Practical Reserve Capacity (PCR) (which is a measure of the degree of spare capacity / degree of overload at the arm/lane with the worst DoS) is within capacity. Furthermore the predicted mean maximum queue levels on the highway would not be deemed to have a severe impact on the nearest junctions in either direction.

- 7.9.30 In conclusion, from a highways and transport perspective, HCCHA have assessed and reviewed the capacity and modelling results of the assessment of the proposals in the context of paragraph 111, National Planning Policy Framework (NPPF) (update 2021), which states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". In this context and in conjunction with a review of traffic flows using HCCHAs COMET model, the application and above model results have demonstrated that there would not a severe impact on the road network including when assessing the cumulative impact of baseline traffic data + committed developments (including HS2, the Reach Free School and hotel) + TEMPRO growth factors to 2031 + the development in the AM and PM peak. Furthermore the site is an allocated employment site in TRDC's Local Plan and the A412 forms part of an A road network. Therefore the number of additional trips from the application site itself onto the A road would not be considered to be severe in this context.

#### ***Proposed Access & Off-site Highways Works***

- 7.9.31 Access to the site is proposed via the private access road, with the introduction of a signalized junction with the A412. Vehicular access is not proposed to be provided via Maple Lodge Close, a residential road with traffic calming measures.
- 7.9.32 It is proposed to extend the existing private access road in addition to the formation of a new pedestrian footway on the western side of the carriageway. Three vehicular accesses are proposed from the private road, one serving Unit 1 and two serving Unit 2.
- 7.9.33 The proposed access arrangements including details of kerb radii, visibility splays and widths are considered to be acceptable and in accordance with Roads in Hertfordshire: Highway Design Guide and MfS.
- 7.9.34 Vehicle tracking / swept path analysis has been included as part of the submitted TA and the details are considered to be sufficient to illustrate that an HGV could safely manoeuvre into and out of the site accesses in addition to a car moving in and out of the car park only access. The developer would need to put in place a permanent arrangement for long term maintenance and the road name plate would need to indicate that it is a private road as HCCHA would be unlikely to agree to its adoption.
- 7.9.35 The proposed off-site highway mitigation works which include the signalization of the junction of Denham Way (A412) with the private access road, would be necessary to mitigate the impacts from the proposal and enable traffic generated by the proposals to egress safely from and onto the highway. The measures would also be necessary to provide a safe crossing point for pedestrians and cyclists across Denham Way and across the mouth of the entrance to the private access road.
- 7.9.36 HCCHA have advised that the layout appears to work operationally and is considered to be acceptable, however, the design would be subject to a detailed review and road safety audit as part of the Section 278 (Highways) Agreement. The S278 Agreement would need to include:

- The signalization of the junction of Denham Way (A412) and the private access road including the associated carriageway widening, additional filter lanes and any associated works at the junction and to/from the Maple Cross roundabout;
- The provision of signalized crossings points for pedestrians and cyclists (across Denham Way and one across the mouth / entrance of the private access road) to replace the existing pedestrian signalized crossing on Denham Way;
- The relocation of the two bus stops with easy access kerbing, shelters and real-time bus information display screens.

7.9.37 Concerns raised regarding use of Maple Lodge Close are noted. In terms of construction traffic, a condition on any grant of consent would require the submission of a Construction Traffic Management Plan (CTMP) for approval. The CTMP would be required to include details of access/delivery routes to ensure that construction vehicles did not access the site via Maple Lodge Close. It is standard practice for such detail to be included within a CTMP. In terms of traffic post completion, as noted above, the development includes highway improvements to the private access road and junction with Denham Way such that it is considered it would be the preferred route for vehicles. As noted below a final submitted Travel Plan would need to be submitted for approval prior to the commencement of works, in a similar manner to the CTMP, this can include notifying staff and delivery vehicles regarding the correct access to the site to avoid use of Maple Lodge Close.

### ***Accessibility, Sustainability & Travel Plans***

- 7.9.38 HCCHA note that the site is located on the north-east side of Maple Cross within approximately 1.2km of the whole of the settlement. The settlement edge of Rickmansworth is approximately 800m north of the site and the town centre (and train station) approximately 3.5km north-east of the site. As such, the site is within an acceptable cycling and walking distance from the rest of Maple Cross and parts of Rickmansworth. There is footway and cycleway provision along Denham Way south into Maple Cross and north into Rickmansworth although parts of the shared foot/cycle way could be widened and improved to maximise pedestrian and cycling accessibility. The only pedestrian and cycling access into the site would be via the unnamed private access road and not Maple Lodge Close. Measures would need to be explored to ensure that the existing (and new extended) footway is kept free of car parking.
- 7.9.39 The nearest bus stops are located on Denham Way between approximately 350m and 550m from the development site. This is greater than the normally recommended 400m maximum walking distance from some parts of the site. The bus stops are also proposed to be relocated slightly further north along Denham Way as part of the signalisation of the access junction. This is considered to be acceptable when taking into consideration the proposed improvements to pedestrian and cycling accessibility at the junction and walking distances still remain within an acceptable level.
- 7.9.40 HCCHA note that the proposals include the provision of 57 cycle parking spaces which they consider acceptable at this stage. HCCHA recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members once known. This is to ensure that cycling is encouraged and maximised as a form of sustainable travel for staff members and visitors to and from the site.
- 7.9.41 A Framework Travel Plan has been submitted. Whilst HCCHA consider it to be generally acceptable at this stage of the development, the final submitted Travel Plan would need to be appropriately updated to take into consideration the comments of HCCHA. This would need to be submitted for approval prior to the commencement of works.
- 7.9.42 HCCHA note the concerns from local residents that the number of vehicles associated with the development would detrimentally impact on the safety of the surrounding highway network in Maple Cross, specifically for pedestrians. The proposed signalised junction and associated improvements to pedestrian and cycling accessibility / safety have previously

been requested by HCCHA and were agreed in principle as part of the pre-application discussions to take into consideration and mitigate any adverse impacts from the proposals and to ensure that the proposals are acceptable from a highways and transport perspective, specifically in relation to access for pedestrians and cyclists. In this context the proposed highway works would improve the accessibility and safety for pedestrians and cyclists travelling between Maple Cross and Rickmansworth (including to and from the Reach Free School) and therefore onto and from the wider highway network.

### ***Planning Obligations & Conditions***

- 7.9.43 HCCHA note that as TRDC has adopted the Community Infrastructure Levy (CIL), therefore contributions towards local transport schemes would be sought via CIL in appropriate cases. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq. m. of non-residential development is £nil.
- 7.9.44 Nevertheless in order to make the proposals acceptable to maximize sustainable travel options, HCCHA recommends that developer contributions of £6000 are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed.
- 7.9.45 In terms of planning conditions, a Construction Logistics Management Plan has been provided and the general details are acceptable to HCCHA, however, a full Construction Management Plan with more specific information would be required to be submitted for approval prior to the commencement of works. As noted above, a final Travel Plan would also need to be submitted for approval.
- 7.9.46 A detailed scheme for off-site highways works would also be required to be submitted, relating to design, implementation and construction.
- 7.9.47 The proposed access road, on-site car parking and turning areas would be required to be laid out, demarcated, surfaced and drained in accordance with the approved plan prior to first occupation and retained thereafter available for that specific use.
- 7.9.48 Details of Electric Vehicle Charging Points (ECVPs) are also requested via condition.

### ***Conclusion***

- 7.9.49 HCC as Highways Authority considers that there would not be an unacceptable highway safety reason nor a severe road network reason to justify the recommendation of refusal of the proposals from a highways or transport perspective by HCCHA. Nevertheless the acceptability of the proposals would be subject to the full technical approval and completion of the necessary off-site highway work and inclusion of the above recommended highway conditions, 106 obligations and highway informatives. It is considered that the obligations would meet the NPPF 57 tests.

### **7.10 Parking**

- 7.10.1 Three Rivers District Council are the Parking Authority, and Policy DM13 and Appendix 5 of the Development Management Policies LDD set out the car parking requirements for the District. Car parking spaces should be shown on a proposed site layout plan with care taken to ensure that the size of any proposed car parking area is the minimum necessary to facilitate parking.
- 7.10.2 The parking requirements at Appendix 5 require:

B1(a) office 1 space per 30sqm  
B1(c) light industry 1 space per 35sqm

B2 General industry 1 space per 50sqm plus 1 lorry space per 200sqm  
 B8 Storage and distribution 1 space per 75sqm plus 1 lorry space per 200sqm

7.10.3 The standards for car parking may be adjusted according to which zone the proposed development is located in. The application site is located within zone 3 where provision of between 50-75% of the standard may be acceptable.

7.10.4 The proposed floor areas for Units 1 and 2 combined and parking requirements are summarised in the table below:

| Use  | Floor Area            | Parking Requirements  |
|--|-----------------------|---|
| Core & Office (Class E(gi) formerly B1(a)) | 1,828 m <sup>2</sup>  | 1,828 m <sup>2</sup> / 30 = 61 spaces<br><br>or 30-46 spaces if apply zonal reduction   |
| Warehouse (E(giii) (formerly B1c), B2, B8) | 14,234 m <sup>2</sup> | 14,234 m <sup>2</sup> / 75 = 190 car spaces<br><br>or 95-142.5 car spaces if apply zonal reduction<br><br>14,234 m <sup>2</sup> / 200 = 71 lorry spaces<br><br>or 36 – 53 lorry spaces if apply zonal reduction |
| Total                                      | 16,116 m <sup>2</sup> | <b>125 – 188.5 car parking spaces applying zonal reduction</b><br><br>+<br><b>36 – 53 lorry spaces applying zonal reduction</b>   |

**7.10.5 In summary, the application would generate a requirement for between 128 – 188.5 car parking spaces and for between 36 – 53 lorry spaces.**

7.10.6 Appendix 5 of the Development Management Policies LDD also sets out that the parking needs of disabled motorists. The standards require, in the case of employment generating development 'up to 200 space car park', individual spaces for each disabled employee plus 2 spaces or 5% of the total capacity, whichever is greater.

7.10.7 The number of disabled employees is unknown at this stage, however, the application proposes 8 accessible spaces which equates to 5% of the total car park capacity of 141 spaces.

**7.10.8 The proposed parking versus the policy requirements are summarised in the table below:**

|  | Proposed | Policy Requirement | Difference |
|--|----------|--------------------|------------|
|--|----------|--------------------|------------|

|                 |            |               |                    |
|-----------------|------------|---------------|--------------------|
| Car             | 141        | 128 – 188.5   | Falls within range |
| Disabled spaces | 8 (of 141) | 8 (5% of 141) | None               |
| HGV / Trailers  | 38         | 36 - 53       | Falls within range |

7.10.9 It is noted that TRDC current adopted policy does not require Electric Vehicle Charging Points (EVCP), however, the draft parking policy approved by the Local Plan Sub-Committee and Policy & Resources Committee includes a requirement for 20% of spaces for such a development to be active provision and 30% to be passive. The application proposes 29 active charging points for spaces (20%) and 43 passive spaces (30%), enabling future conversion. Very limited weight can be attached to the emerging policy, however, the proposal accords with the intentions of that policy. Details of the EVCP would be secured via condition. It is also noted that HCCHA are supportive of this to ensure that the development is in accordance with LTP4 and HCC'S Sustainability Strategy.

7.10.10 Appendix 5 also sets out the following cycle parking standards:

- B1 - 1 short-term space per 500sqm gross floor area plus 1 long-term space per 10 full time staff
- B8 – 1 long-term space per 10 full time staff

7.10.11 At this stage employee numbers are not known, however, the application proposes 57 long-term cycle spaces. This is considered acceptable at this stage, as supported by HCCHA. However, HCCHA recommend that the level of cycle parking is increased accordingly dependent on the number of potential staff members. It is considered that this requirement can be addressed by a planning condition.

7.10.12 As indicated in the table above, the proposed car parking provision at 141 spaces would fall within the policy requirement when applying a zonal reduction. Of the car parking spaces proposed, the required percentage of accessible spaces would be provided. The proposed lorry parking provision at 39 spaces would also fall within the required range when applying a zonal reduction. 57 long-term spaces are currently indicated which is considered appropriate at this stage, however, provision could be increased accordingly dependent on the number of staff. The provision of 20% active and 30% passive EVCP is supported.

7.10.13 Whilst TRDC is the parking authority, it is relevant to note that HCCHA do not object to the overall level of parking or the layout which they consider is acceptable in accordance with MfS.

7.10.14 As such no objections are raised on parking grounds and the development is considered to comply with Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

## 7.11 Energy & Sustainability

7.11.1 Paragraph 152 of the NPPF states that “The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure”.

7.11.2 Policy CP1 of the Core Strategy requires the submission of an Energy and Sustainability Statement demonstrating the extent to which sustainability principles have been incorporated into the location, design, construction and future use of proposals and the expected carbon emissions.

7.11.3 Policy DM4 of the DMLDD requires applicants to demonstrate that development will produce 5% less carbon dioxide emissions than Building Regulations Part L (2013)



requirements having regard to feasibility and viability. This may be achieved through a combination of energy efficiency measures, incorporation of on-site low carbon and renewable technologies, connection to a local, decentralised, renewable or low carbon energy supply.

- 7.11.4 Three Rivers District Council declared a 'Climate Emergency' in 2019. The Climate Change Motion put forward by Members commits the council to use all practical means to reduce the impact of council services on the environment, use all planning regulations and the Local Plan to cut carbon emissions and reduce the impact on the environment. Following the declaration of the 'Climate Emergency' Three Rivers District Council agreed a Climate Change and Sustainability Report at its Full Council meeting on 25 February 2021. The TRDC Climate Strategy is not a planning document, but an overarching Council Strategy which is informed by the draft policies in the new Local Plan. Whilst the declaration of the Climate Emergency and Climate Change Strategy are noted, it is the current adopted Policy DM4 against which any planning applications must be currently be assessed.
- 7.11.5 The application is accompanied by an Energy Statement prepared by KGA (UK) Ltd (February 2021 R4). The statement sets out that the development has been designed to achieve optimum energy performance, incorporating the following features:
- Significantly exceed the minimum fabric requirements of Part L2A (2013) of the Building Regulations.
  - All buildings will include 100% low energy lighting and lighting control.
  - All buildings will be provided with mechanical ventilation with heat recovery (MVHR) systems for ventilation within offices.
  - The open plan offices will be heated and cooled via a high efficiency heat pump.
- 7.11.6 The statement illustrates that after the application of improvement in fabric, energy efficient building services and low and zero carbon technologies, both Units 1 and 2 would produce 5% less carbon dioxide emissions than Building Regulations Part L (2013).
- 7.11.7 In addition, having explored the feasibility of a range of renewable technologies, 250 square metres of roof mounted photovoltaics are also proposed. The addition of solar PV panels would result in Units 1 and 2 producing 40% and 37% less carbon dioxide emissions respectively. This would significantly exceed the current policy requirement for 5% and is supported.
- 7.11.8 The development would exceed the requirements of Policy DM4 of the Development Management Policies LDD (adopted July 2013).

## 7.12 Wildlife and Biodiversity

- 7.12.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 9 of the Conservation of Habitat and Species Regulations 2017 (as amended) which states that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.12.2 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by:
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*
- 7.12.3 Paragraph 179 of the NPPF advises that in order to protect and enhance biodiversity and geodiversity, plans should:

*b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

7.12.4 Paragraph 180 of the NPPF advises that when determining planning applications, local planning authorities should apply principles including:

*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

7.12.5 Policy CP1 of the Core Strategy (adopted October 2011) advises that; “all development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to (amongst other things) (f) “protect and enhance our natural, built and historic environment from inappropriate development and improve the diversity of wildlife and habitats”.

7.12.6 Policy CP9 of the Core Strategy (adopted October 2011) advises that; “The Council will seek a net gain in the quality and quantity of Green Infrastructure, through the protection and enhancement of assets and provision of new green spaces”.

7.12.7 Policy DM6 of the Development Management Policies LDD advises that development should result in no net loss of biodiversity value across the District as a whole.

7.12.8 Policy DM6 advises that;

*(a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:*

*ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.*

*(d) Development must conserve, enhance and, where appropriate, restore biodiversity through:*

*i) Protecting habitats and species identified for retention*

*ii) Providing compensation for the loss of any habitats*

*iii) Providing for the management of habitats and species*

*iv) Maintaining the integrity of important networks of natural habitats, and*

*v) Enhancing existing habitats and networks of habitats and providing roosting, nesting and feeding opportunities for rare and protected species.*

*(e) Linked habitats are important in allowing species to adapt and respond to circumstances. Development must not result in fragmentation or isolation of wildlife habitats and should seek opportunities for habitat connectivity with the wider landscape.*

There is a Local Wildlife Site, Maple Lodge Nature Reserve, to the south east of, but not immediately adjacent to, the application site.

### **Bats**

7.12.9 Except for a small (c. 4 sqm), partially-collapsed brick building on the west of the site and a small flat-roof building outside the eastern boundary, there are no existing buildings or hardstandings present and the site is covered almost entirely by natural or semi-natural habitats. The submitted survey indicated that one of the buildings had negligible potential

for roosting bats whilst the second had moderate potential. Emergence and re-entry surveys were subsequently carried out on the building with moderate potential and no evidence of use by bats was found. Emergence and re-entry surveys were also undertaken focussing on trees as identified as having moderate potential to support roosting bats and the surveys confirmed the likely absence of roosting bats. As roosting bats are likely absent from the site, no formal mitigation is required on this basis. However, the site is considered to be of local importance of foraging and commuting bats. As such, existing tree lines are proposed to be retained. Similarly, as bats are light sensitive a sensitive lighting plan is required and would be secured by condition. Subject to an appropriate condition regarding lighting, bats would not be adversely affected by the proposed development.

### **Reptiles, Badgers, Otters & Water Voles**

- 7.12.10 No reptiles were found during surveys, however, measures to safeguard reptiles (as set out in the ecological report) are recommended as there is suitable reptile habitat along the site boundary. Appropriate measures and mitigation in relation to badgers has been provided. No evidence of otters or water voles was identified.

### **Forester Moth**

- 7.12.11 During the course of the processing of the application it was brought to the LPAs attention that a Forester moth had been recorded on the application site. This is a rare moth which is understood to have not been recorded in Hertfordshire since 1947 and as such was considered extinct within the County. Hertfordshire Ecology (HECO) note that the County Moth Recorder considers it unlikely that the moth has migrated to the site. There is no evidence of breeding, although the food plants – Common and Sheep's sorrel – are frequent / one patch respectively within the site. HECO note that this used to occur in the west of the county on clay soils, although there is no suggestion it is limited to river valleys. Habitats used by the moth as described by Butterfly Conservation include damp neutral grassland (such as the application site) to chalk downland, heathland, sand dunes and woodland clearings – i.e. a very wide range. Common sorrel - an indicator of old grassland where it survives moderate change - is relatively common throughout most of Hertfordshire.
- 7.12.12 The Forester moth is listed under Section 41 of the Natural Environment and Rural Communities Act (NERC) 2006, which identifies it as a species of principal importance in England. The LPA, accordingly, must 'have regard' to its conservation when performing any of its functions in accordance with its duty to conserve biodiversity under S40 of the Act (see Defra explanatory note on s.41).
- 7.12.13 As noted, paragraph 180 of the NPPF advises:

*When determining planning applications, local planning authorities should apply the following principles:*

*a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

- 7.12.14 As also noted, Policy DM6 advises that;

*(a) Development that would affect a Site of Special Scientific Interest, Local Nature Reserve, Local Wildlife Site or protected species under UK or European law, or identified as being in need of conservation by the UK Biodiversity Action Plan or the Hertfordshire Biodiversity Action Plan, will not be permitted where there is an adverse impact on the ecological, geological or biodiversity interests of the site, unless it can be demonstrated that:*

- i) The need for the development would outweigh the need to safeguard the biodiversity of the site, and where alternative wildlife habitat provision can be made in order to maintain local biodiversity; and*
- ii) Adverse effects can be satisfactorily minimised through mitigation and compensation measures to maintain the level of biodiversity in the area.*

7.12.15 HECO have commented that conservation work relating to the Forester moth nationally has been variously successful;

*“It was lost from Warwickshire despite measures taken to conserve it, but the Forestry Commission (FC) (08/07/2011) reported over 1,200 adults following creation of a 2.5 ha wildflower meadow grassland from former agricultural land at Long Newton near Middlesborough. The Upper Thames moth group reports (2019) Bucks sites with over 40 individuals, 16 individuals on a previously known site and 19 on a new site. These sites were on old ridge and furrow meadows on the clay and records more than doubled previous sighting numbers”.*

7.12.16 This suggests that the species is potentially capable of having better years and may indicate why it has been recorded at Maple Cross and Chorleywood Common in 2021. Whilst the Bucks sightings were associated with old well-established grasslands, the FC experience also suggests that new habitat can be created which is capable of being colonised by the species. This suggests that it is reasonable to conclude that appropriate compensation measures secured by planning condition may be successful in providing new and improved suitable habitat resources.

7.12.17 As noted above, as a S41 NERC Act listed species “of principal importance for the purpose of conserving biodiversity” covered under section 41 (England) of the NERC Act (2006) it therefore needs to be taken into consideration by a public body when performing any of its functions with a view to conserving biodiversity. Consequently, in considering an application for development on land supporting the moth, TRDC must seek to secure its conservation. The possibility that the application site has been used for breeding by the Forester moth cannot be ruled out given the presence of its food plant and current rather rank nature of the sward. However, it would seem that there is experience which demonstrates that habitat compensation for any loss can be provided if a suitable grassland species composition and management regime could be secured elsewhere locally. This compensatory approach could overcome the constraint the species may otherwise represent if it could not be retained on-site, which is unlikely if the proposals were approved. HECO also consider that this would ensure that TRDC has complied with its NERC Act obligations relating to its Biodiversity Duty and S41 species responsibilities.

7.12.18 For this compensatory habitat to be provided, a suitably sized species-rich grassland supporting common sorrel and sheep’s sorrel if the ground is acidic, as well as other flowering herbs, would need to be created locally. Hay cutting and or grazing should seek to retain a short length of grass sufficient to enable overwintering of the caterpillar or pupa. Given the moth is currently recorded on a grassland of just over 2 ha, HECO consider that a grassland of similar size and improved composition would be appropriate to accommodate sufficient habitat, larval food plants and nectar sources.

7.12.19 The applicant has proposed a potential conservation approach specifically to accommodate the presence of the Forester moth. This is presented with further background information on the ecology of the moth and proposed mitigation and management (letter from Greengage of 20 August 2021). Without appropriate management of the existing site, the habitat conditions needed by the moth are unlikely to be maintained. This supported the original Biodiversity Net Gain (BNG) proposal which it was proposed would provide a level of suitable compensation habitat for the moth.

7.12.20 Since this letter, Greengage proposed (26/08/2021) an additional financial contribution based upon the original HECO July 2019 BNG calculation approach (outlined at 4.2.5.3

above). This calculation is based on the area of the Maple Cross site that is currently grass cover and what an additional S106 contribution could be, looking at this being applied independently to enable compensation for the Forester moth to be delivered.

- 7.12.21 Greengage stated the application site is 3.4ha, of which approximately 2ha is grass cover. If the stewardship costings that were used for the previous contribution figure of £17,725 (for 2.26ha) are applied for this area, the additional S106 contribution would amount to £16,685, resulting in a total contribution of £34,410. Greengage considered that this followed a methodology that is appropriate for a contribution to the creation and management over a 25-year period of an appropriate species rich grassland that would provide suitable habitat conditions for the Forester moth.
- 7.12.22 HECO have confirmed that they have no reason to object to this assumption in itself, which follows the original habitat restoration and enhancement approach and is designed to address the species interest recorded at the site. It would obviously provide more habitat compensation and thus more opportunity for the Forester moth to colonise a potentially suitable offsite grassland site, and in this respect is welcomed.
- 7.12.23 Subject to a S106 to secure such contribution it is considered that the development accords with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013) and that the LPA has complied with its NERC Act 2006 obligations relating to its Biodiversity Duty and S41 species responsibilities.

#### **Local Wildlife Site (LWS)**

- 7.12.24 Maple Lodge Nature Reserve is a Local Wildlife Site to the south-east of, but not immediately adjacent to, the application site. It extends to approximately 40 acres and consists of lakes, a marsh, hedgerows and a wooded plantation. Whilst the wildlife site would not be directly affected by the proposals, significant concerns have been raised by interested parties regarding the impact of the proposed development on water levels within the Local Wildlife Site.
- 7.12.25 The Environment Agency (12 May 2021) ('EA') objected to the application on grounds including:
- "Insufficient information to determine the risk to groundwater, as the planning application fails to identify the Maple Lodge Nature Reserve, a Ground Water Dependent Terrestrial Ecosystem (GWDTE), as a ground water receptor.  
Reason: The proposed development presents a high risk of contamination could be mobilised during construction to pollute controlled waters."*
- 7.12.26 In support of their objection the EA cited paragraphs 170 and 178 of the 2019 NPPF which are now paragraphs 174 and 183 of the 2021 NPPF.
- 7.12.27 The Maple Lodge Nature Reserve (MLNR), as a GWDTE classified by the EA, is a wetland which critically depends on groundwater flows or chemistries. It is, as such, safeguarded by the Water Framework Directive (WFD) and recognised as being sensitive to hydrological and ecological changes caused by developments.
- 7.12.28 The 'environmental objectives' in Regulation 13 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (the 2017 Regulations) include:
- '(2) For surface water bodies, the objectives are to-
- (a) prevent deterioration of the status of each body of surface water...;
- (5) For ground water bodies, the objectives are to –
- (a) prevent deterioration of the status of each body of groundwater...'

- 7.12.29 In Case C – 461/13 Bund v. Germany 10/07/2015 ('the Weser case') the European Court of Justice ('ECJ') held that the objectives of the Water Framework Directive were legally binding such that individual projects estimated to compromise the objectives were to be refused planning permission. The ECJ also decided that any deterioration in individual water body quality elements constituted 'deterioration' as defined by the Directive (the test did not just apply to overall water body status).
- 7.12.30 In their letter the EA advised that:
- "It may be possible to overcome our objection by undertaking further risk assessment to ensure there will be no adverse impact to the MLNR GWDTE as a result of the proposed development."*
- 7.12.31 In response to the EA objection, the applicants instructed H Fraser Consulting, who have carried out a hydrological impact assessment entitled 'Maple Lodge nature reserve Hydrological impact assessment and GQRA (07/06/2012)' ('HIA') which is to be read in conjunction with the HFCL (2021) Contaminated Land and DQRA reports submitted with the application.
- 7.12.32 The HIA at paragraph 2.2 identifies the development proposal and that the piling method to be used would be displacement piling with pre-formed concrete piles not using wet grout or cement. It is noted that "The compressive zone around the pile tends to be self-sealing, mitigating against the formation of pathways for groundwater transport up or down the pile shaft."
- 7.12.33 In HIA at paragraph 2.3 the assessment describes the MLNR including the shallow lakes, Clubhouse Lake and Marsh Lake; the water levels of the latter lake thought to be influenced by fluctuations in water levels in the River Colne via flow in the River Terrace Deposits ('RTD') aquifer. The RTD aquifer extends to underlying the application site with the Chalk aquifer (which is extensively used for ground water abstraction for Public Water Supply (PWS)) below. The groundwater contours in HIA Figure 2-8 show that the groundwater gradients in the shallow RTD aquifer are towards the southwest, indicating that groundwater flows from the site are towards the stream on the western site boundary which flows, via a ditch, into the MLNR. Groundwater flows in the Chalk aquifer are generally towards the southeast but with some indication of a flow to the south toward the MLNR.
- 7.12.34 HIA section 4 reports that the updated DQRA Site Conceptual Model indicates that, on the basis of groundwater monitoring data, RTD groundwater flowing beneath the application site is not thought to intercept the Clubhouse Lake and Marsh Lake; but that on a conservative analysis, assuming groundwater in the Chalk aquifer under the site flows to the south, it contributes to discharge from the aquifer to the two lakes.
- 7.12.35 On this analysis, the informed calculations in HIA section 5 Table 5-1 show that the component of groundwater deriving from the application site, including the proposed piling zone, flowing to the lakes is as follows:
- flows through the RTD aquifer 35m<sup>3</sup>/d or 3% of the total input to the lakes;
  - flows through the Chalk aquifer 31m<sup>3</sup>/d or 3% of the total input to the lakes.
- 7.12.36 Table 5.2 shows the change in groundwater flow through the site that would arise as a result of the proposed piling; a 'conservative estimate' amounting to a 4% reduction of the current flow of groundwater to the lakes. For the bulleted technical reasons set out in HIA section 5, the risks to the MLNR are considered negligible.
- 7.12.37 The transport of manganese is addressed in HIA section 6 where the conclusion drawn that the increase in manganese concentrations in the MLNR would be low and not a cause of concern, is explained in six bullet points.

- 7.12.38 The DQRA report includes a detailed assessment of the likely transport of turbidity in the Chalk aquifer following the proposed development. HIA section 7 updates the assessment to assess whether groundwater velocity in the RTD aquifer is sufficient to sustain transport of turbidity. For the reasons set out in five bullet points, the conclusion is drawn that the risks of the development causing turbidity that would affect the MLNR are considered low. It is observed that, in any case, it is highly likely that the ecosystems within the nature reserve are adapted to normally naturally occurring turbidity events.
- 7.12.39 The assessment of there being any risk of contamination of the MLNR following the proposed development including displacement piling through the RTD and into the Chalk aquifer is set out in HIA section 8. The technical analysis set out in HIA Table 8-1 indicates that the risk would be negligible such that it is not anticipated that there would be any impact on the MLNR or on any groundwater dependent terrestrial ecosystems that may exist there.
- 7.12.40 Without prejudice to this conclusion, the HIA proposes an extensive programme of monitoring including the following mitigation measures;
- A piling method statement;
  - Densification of the piling zone and the sequence of piling;
  - Groundwater monitoring; and monitoring after piling for a period of eight weeks; and
  - A Construction Environmental Management Plan setting out good practice for the minimisation of environmental impacts.
- 7.12.41 Regulation 13 'The Environmental Objectives' of the 2017 Water Environment (Water Framework Directive) (England and Wales) Regulations sets out environmental objectives which seek to prevent the deterioration of the status of water bodies which include the MLNR GWDTE. For the reasons set out in the technical assessment reported in the HIA, it is concluded that there is no demonstrable evidence to show that the proposed development of the application site would cause any material deterioration of the MLNR wetland ecosystems or the GWDTE that are protected by the 2017 Regulations or compromise any WFD objectives. Nor is the development likely to have any significant effect of the ecological status of the MLNR for the purposes of NPPF 182.

### ***Habitats & Biodiversity Offsetting***

- 7.12.42 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by, among other matters:

*d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*

No % or quantum of 'net gains' is stipulated in the framework.

- 7.12.43 Paragraph 179 of the NPPF advises that in order to protect and enhance biodiversity and geodiversity, plans should:

*b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

- 7.12.44 Paragraph 180 of the NPPF advises that when determining planning applications, local planning authorities should apply principles including:

*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

- 7.12.45 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that (d) *'development must conserve, enhance and, where appropriate, restore biodiversity through: ii) providing compensation for the loss of any habitats'*.
- 7.12.46 The Environment Act (introduced as a Bill in October 2019 and enacted following receipt of Royal Assent on 9 November 2021) proposes to mandate the requirement for BNG in legislation, through changes made to the Town and Country Planning Act 1990. The Bill proposes to achieve a threshold 10% gain in biodiversity. The Bill received Royal Assent on 9 November 2021 meaning that it is now an Act of Parliament. Mandatory BNG as set out in the Environment Act applies only in England by amending the Town and Country Planning Act and is likely to become law in 2023. The requirement for 10% BNG is, therefore, not yet enshrined in planning law. As noted above, however, Local Plan Policy DM6 refers to the provision of compensation measures for the loss of any habitats.
- 7.12.47 When considering the impact of the development proposals on biodiversity it is necessary to consider impacts on habitats found on the application site and other potentially affected habitats off-site. There is no evidence to show that the proposed development of the application site would cause any demonstrable material deterioration of the MLNR wetland ecosystems or the GWDTE. And as seen in the consultation responses above, the discussion regarding the potential impact of the proposed development on species that are either found on or use the site, concludes that there would be no material adverse impact on species of fauna or flora at or using the site where biodiversity compensatory measures are secured by appropriate planning conditions and obligations.
- 7.12.48 It is recognised that the proposed development would have a direct biodiversity impact on the application site by reason of the loss of grassland. At the time of the previous application (ref. 19/1179/FUL), HECO considered that it would be appropriate to determine the appropriate financial contribution by reference to the cost of creating and managing, over a 25-year period, a smaller area of more species-rich grassland as a comparable ecological resource. HECO recommended that this should be an area of 2.26 hectares (two-thirds of the size of that being lost at the application site) plus 10% to represent a net gain of that resource. The total cost of this provision amounted to £17,725.
- 7.12.49 This recommendation did not follow any formal Biodiversity Metric assessment, which calculates the existing habitat on site in terms of biodiversity units, as well as the impact of the development and related compensation and enhancement measures. It is recognised that the HECO approach would probably have identified a lower monetary value than an approach using the metric with its defined biodiversity unit costs. In particular, it focused only on the conservation measures considered to benefit an existing local site. However, at the time, it was considered that if the measures could be secured, the potential benefits generated from restoring an otherwise degraded but formerly valuable Local Wildlife Site would adequately compensate locally for the loss of a poor grassland site which did not justify LWS status. This was considered to be a reasonable and proportionate compensatory approach at the time, taking account of what was known of the nature of the application site.
- 7.12.50 In the subsequent appeal, new photographic evidence was submitted which appeared to show higher quality grassland was present on the site than had been previously identified. This was viewed by HMWT as indicative of the grassland meeting Priority Habitat status, based upon species identified in the photographs.
- 7.12.51 In the interim period between the HECO response to the original application and the appeal, the Government published its updated biodiversity metric and the Environment Bill, promoting the need for developments to demonstrate a measured BNG of 10%. Consequentially, at the appeal, HECO stated that if a similar application was now made, they would advise that it was reasonable for the LPA to expect that a 10% BNG be calculated using the NE metric V2.



- 7.12.52 In her decision letter, Inspector Coffey (paragraph 100) observed that: *“the benefits arising from the proposal are not measurable and that it may be beneficial to use a metric such as that produced by DEFRA [NE]. However, the use of a metric is not mandatory. The proposal includes mitigation and enhancement measures on the appeal site as well as sufficient funds to provide an area of grassland of greater ecological interest than the appeal site and to maintain it for 25 years.”* Accordingly, the Inspector did not find that the absence of the application of a biodiversity metric to the proposed biodiversity compensation measures excluded the probability of them contributing to biodiversity gain.
- 7.12.53 Since the Appeal Inquiry, in July 2021 NE published V3 of the metric. And, when this planning application was submitted in 2021, HECO undertook a site survey to update its own understanding of the site given the local concerns and assessed the proposals using V2 of the NE Metric, to determine what contributions to biodiversity net gain might be made. The total contribution based on HECO's 10% calculation was £142,800.
- 7.12.54 In their comments of 14.09.2021 (Section 4.2.5.3 above), HECO set out that they consider there to be a number of options with regard to delivering BNG, and these are considered in turn:
- 7.12.55 Firstly, to maintain the existing original contribution of £17,725. This is not considered to take into consideration the evidence relating to the Forester Moth and necessary mitigation, and is therefore not supported by the LPA.
- 7.12.56 Secondly, to secure a greater contribution of £34,410. In order to ensure that BNG is achieved and the loss of Forester moth habitat is accounted for, the applicant proposes to include mitigation and enhancement measures on the application site as well as sufficient funds to provide an area of grassland of greater ecological interest than the application site and to maintain it for 25 years. Given that without appropriate management of the site the habitat conditions needed by the moth are unlikely to be maintained and the greater ecological interest of the proposed compensating grassland, it is concluded that the proposed development would comply with Core Strategy policy CP9 and LDD Policy DM6, as well as the advice in the Framework if a biodiversity contribution of £34,410 was secured. It is proposed, accordingly, to increase the financial contribution to take account of up-dated biodiversity information using the same methodology for an additional area of grassland. This would approximately double the area of compensatory grassland. On this basis the total figure sought would be £34,410. This follows the approach and methodology taken at the time of the previous application and is considered development plan policy compliant by officers.
- 7.12.57 Thirdly, to apply the NE V2 Metric and seek a contribution of £142,800. Both the NPPF (para. 174 (d)) and the Development Management Policies LDD are clear that development proposals should seek to secure net gains for biodiversity. The emerging biodiversity policy of Government is also clear, as set out in the Environment Act; not only should there be 'net gains for biodiversity,' the Act proposes to require a measurable gain of 10% BNG. The NPPF and DMP LDD do not currently set out a quantum or percentage of BNG, and 10% BNG is not currently mandatory. However, emerging policy supported by Government is clearly supportive of the achievement of measurable biodiversity gains and the Defra Metric provides a tool for calculating measurable BNG. It is also noted that the applicant has confirmed in writing that should the LPA, having regard to the development plan and other material considerations consider it, necessary and appropriate to determine the biodiversity compensation based on HECO's 10% calculation utilising the NE V2 Metric, they would be willing to make a financial contribution towards BNG of up to £142,800. Officers consider that having regard to Policy DM6 seeking to incorporate measures for biodiversity enhancement wherever possible and the provision of compensation for the loss of habitat, and the support given by NPPF 174 (d) to providing net gains for biodiversity the LPA can find that it is necessary and appropriate to require that the development provides the measured contribution to biodiversity net gain calculated by reference to the NE V2 Metric to secure 10% BNG through a contribution of £142,800.

- 7.12.58 The HECO options, 4 and 5, relate to a compromise figure between options 2 and 3 above. Whilst comments from HECO regarding a compromise between the various figures are noted, as they also note themselves, such a compromise figure cannot be directly justified and therefore the LPA does not consider that such a figure would meet the CIL Regulation 122 tests. As such options 4 and 5 are not considered appropriate.
- 7.12.59 A number of objections, including from Herts and Middlesex Wildlife Trust (HMWT) have been received that the proposed development is not consistent with national or local planning policy in achieving a measurable net gain to biodiversity. Officers advise that the provision of the measured contribution of £142,800 to achieve 10% BNG meets that objection and is in line with the NPPF and Development Management Policies LDD and the CIL Regulation 122 tests. The £142,800 contribution would be secured by way of a S106 Agreement. The Heads of Term (HOT) would be expressed as: (1) Developer to pay the Council £142,000 (“the Biodiversity Net Gain Contribution”) prior to Commencement; (2) The Biodiversity Net Gain Contribution to be used to provide and thereafter maintain for 25 years an area of species rich grassland in a location within close proximity of the Site which in the opinion of the Council will deliver 11.90 Biodiversity Units (BU) applying the NE Metric V2; (3) The Council to spend the money itself or at its absolute discretion, provide the monies to an identified third party following receipt of details of a scheme proposed by the third party which would accord with the purpose for which the contribution has been given, and which would include a commitment to utilise the monies to protect, manage and maintain the agreed area of species rich grassland for at least 25 years; (4) In the event that the Council elects to provide the area of species rich grassland which will deliver 11.90 BU itself, to protect, manage and maintain that land for not less than 25 years from the date of its first establishment; and (5) Contribution to be repaid to the Developer if either: 1) the Council has not provided an area of species rich grassland in a location within close proximity of the Site which in the opinion of the Council will achieve 11.90 BU, or 2) not paid the monies to a third party for them to provide, protect, manage and maintain the area of species rich grassland within 5 years of the date of payment of the contribution.
- 7.12.60 The applicant has confirmed agreement in principle to payment of this sum and a S106 agreement is being progressed. Subject to such agreement being put in place, it is considered that the proposed development meets the requirements of Policy CP9 of the Core Strategy (adopted October 2011), Policy DM6 of the Development Management Policies LDD (adopted July 2013) and accords with the guidance in the NPPF (2021).

### 7.13 Flood Risk & Drainage

7.13.1 The majority of the site is located within Flood Zone 1 and therefore has a ‘low probability’ of fluvial flooding, with less than a 1 in 1000 annual probability of river or sea flooding in any year. A narrow strip to the eastern and southern boundaries lies within Flood Zone 2 and therefore has a ‘medium probability’ of fluvial flooding, with between a 1 in 100 and 1 in 1000 annual probability of river flooding in any year. The proposed buildings are located wholly within Flood Zone 1. The site lies within Groundwater Source Protection Zone 1 and Maple Lodge Farm Ditch Main River runs along the west boundary of the site.

7.13.2 Paragraph 159 of the NPPF states that;

*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.*

7.13.3 Paragraph 174 of the NPPF advises that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

- 7.13.4 Policy CP1 of the Core Strategy (adopted October 2011) recognises that taking into account the need to (b) avoid development in areas at risk of flooding will contribute towards the sustainability of the District.
- 7.13.5 Policy CP12 of the Core Strategy (adopted October 2011) also acknowledges that the Council will expect development proposals to build resilience into a site's design taking into account climate change, for example through flood resistant design.
- 7.13.6 Policy DM8 (Flood Risk and Water Resources) of the Development Management Policies LDD (adopted July 2013) advises that development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate the risks of flooding elsewhere and that the Council will support development where the quantity and quality of surface and groundwater are protected and where there is adequate and sustainable means of water supply. Policy DM8 also requires development to include Sustainable Drainage Systems (SuDs). A SuDS scheme for the management of surface water has been a requirement for all major developments since April 2015.
- 7.13.7 The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy, general arrangements showing proposed foul and surface water drainage, drainage construction details and proposed surface water manhole schedule.

### ***Sustainable Drainage***

- 7.13.8 HCC as Lead Local Flood Authority (LLFA) were consulted by the LPA to provide advice with regards to surface water drainage. In summary, the LLFA have confirmed (4.2.4 above) that they are content that the applicant has demonstrated a feasible discharge mechanism, management of the volumes of surface water and how they are proposing to manage this (this is with attenuation tanks, permeable paving and an interceptor). The LLFAs consultation response letter to the LPA recommends the inclusion of three conditions, specifically a pre-commencement condition in order to confirm the final details of the scheme, therefore the applicant will be required to submit a detailed drainage strategy with all requirements before they will be able to commence works on site. The LLFA have had regard to the Water Framework Directive, hence the requirement for appropriate management and treatment of surface water, being provided in the form of permeable paving and a petrol interceptor, as well as the exploration of the need for the applicant to assess above ground SuDS features such as filter strips for additional treatment as part of the details requested in the condition.
- 7.13.9 The LLFA note that the drainage strategy is based on permeable paving, geo-cellular attenuation and restricted discharge to the QBAR greenfield runoff rate of 6.5l/s, with a pumped discharge into Maple Lodge Ditch, which is a Main River. As the application site is a greenfield site, the new development should be minimising underground storage. The LLFA consider that the proposal for geo-cellular tanks on a greenfield site is justified by the evidence on the presence of groundwater on site and ensuring that sufficient storage is able to be provided to restrict to the QBAR rate. The applicant will need to fully line SuDS features on site to mitigate against potential groundwater ingress and ensure engineering design against any possible lifting.
- 7.13.10 With regards to management and treatment of surface water, the LLFA note how petrol interceptors are proposed. Mechanical methods of treatment require rigorous maintenance regimes, and it is preferred that more on surface solutions are provided. The LLFA are pleased to see the use of permeable paving for the parking areas. It is acknowledged that due to the use of HGVs on site, mechanical methods of treatment are likely to be needed. The LLFA have recommended to be clarified by way of condition, that the applicant investigates additional provision of above ground management and treatment of surface water. Within the detailed design the applicant will need to explore more appropriate management and treatment of surface water such as the exploration of inclusion of above ground SuDS features such as filter strips e.g. in the north of the site for the linear drainage

channel, as well as other locations including exploration of minimising the use of road gullies and if more appropriate on surface SuDS features could be provided.

7.13.11 With regards to the half drain down times of the drainage system, the applicant has detailed within the FRA itself how half drain down times during the 1 in 100 year + climate change event is 11 minutes. However, from a review of the MicroDrainage calculations, it is stated how Half Drain Time has not been calculated as the structure is too full. However, some specific half drain times are provided within the results for the nodes themselves. If half drain down times are unable to be achieved within 24 hours, the applicant will need to ensure that there is adequate storage on site to cater for a 1 in 30-year storm immediately following a 1 in 100 year + climate change event. The LLFA recommend that this is clarified by way of condition.

7.13.12 The LLFA note that as riparian owner, the applicant will need to ensure that the Maple Lodge Ditch is in a suitable condition and will need to undertake appropriate maintenance. They also note that the applicant will need to liaise with the Environment Agency regarding any permits required for connection to the main river.

#### 7.14 Contaminated Land/Groundwater

7.14.1 Paragraph 174 of the NPPF advises that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other considerations:

*(e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

7.14.2 Policy DM9 of the Development Management Policies LDD (adopted July 2013) advises that;

*“The Council will refuse planning permission for development, including changes of use, which would or could give rise to polluting emissions to land, air and/or water by reason of disturbance, noise, light, smell, fumes, vibration, liquids, solids or other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and be permanently maintained.”*

7.14.3 The application is accompanied by the following documents which have been reviewed by the Environmental and Protection Officer:

- Site Investigation and Geo-Environmental Assessment Report prepared by ESI Environmental Specialists (Report Ref. 62409D1), June 2014;
- Supplementary Site Investigation – Maple Cross, Rickmansworth prepared by Tier Environmental Ltd (Report ref. TL1177SSI1.3), 9th February 2021;
- Method Statement for Monitoring Well Decommissioning prepared by Tier Environmental Ltd (Report ref. TL1177MWDECOM.MS1.2), 23rd February 2021;
- Maple Cross Contaminated Land Assessment and DQRA – Summary report prepared by H Fraser Consulting Ltd (Report ref. 30422R1), 2nd March 2021;
- Piling Method Statement and Risk Assessment for Maple Cross, Hertfordshire prepared by Tier Environmental Ltd (Report ref. TL1177PMSRA1.2), 2nd March 2021.

7.14.4 The Environmental and Protection Officer has advised that the intrusive investigations have not identified any elevated concentrations of contaminants of concern in exceedance of the relevant generic assessment criteria.

7.14.5 The investigations have identified the existence of a complete contaminant linkage with regards to asbestos fibres and fragments in the underlying soils. It is considered that the

site presents a potentially unacceptable risk from asbestos to human health for a commercial/industrial land use.

7.14.6 As the presence of asbestos fibres/fragments was identified in underlying soils a Remediation Strategy is required. Outline remedial measures have been discussed in the report. These include the following:

- Preparation of a Remediation Strategy;
- Removal and verification of areas containing heavily impacted asbestos soils for disposal as hazardous waste, verification of excavations to validate complete removal;
- Removal and segregation of areas containing impacted asbestos soils through hand-picking of visibly identifiable ACM fragments for disposal as both non-hazardous (bulk soils) and hazardous waste (reduced asbestos volume). Verification sampling of excavations to validate complete removal\*;
- Removal and verification of any previously unidentified areas of contamination, where required:
- Backfill of resultant excavations with suitable material;
- Laboratory chemical testing and risk assessment of imported materials required for the for the clean cover system;
- Installation of a 300mm clean cover system at the site in the soft landscaping areas.

7.14.7 Further details were provided in a previously submitted technical note. The physical barriers provided by the hardstanding of the development and the clean cover system are considered suitable measures to break the pathway between any remaining sources of contamination and sensitive receptors. Asbestos fibres are only a risk if they are inhaled, if these are encapsulated under a concrete foundation there is no availability of a pathway and therefore no likelihood of a receptor being exposed to fibres.

7.14.8 The Environmental and Protection Officer has considered all of the submitted information. They agree with the findings of the reports and that there would be no adverse impacts with regards to land contamination as a result of the development subject to appropriate conditions.

7.14.9 The Environmental and Protection Officer has recommended the imposition of a condition requiring both an options appraisal and remediation strategy. The remediation strategy would include details of fibre monitoring to address the potential impact with regards to asbestos. The site would be required to be remediated to a standard that ensures it is suitable for its proposed use. The remediation would remove risks not only to future occupiers of the site but also to adjacent site users.

7.14.10 A verification report would then be required to be prepared to demonstrate completion of works in the agreed remediation strategy. The verification report would be reviewed in order to assess whether the works carried out had removed or controlled the identified risks in accordance with the agreed remediation strategy.

7.14.11 The Environmental and Protection Officer also recommends a condition regarding any unsuspected contamination encountered during development that was not previously identified and proposals put forward to remediate accordingly.

7.14.12 With regards to surface water drainage, Thames Water have advised that if the developer follows the sequential approach to the disposal of surface water they would have no objection. With regards to foul water sewerage network infrastructure capacity, Thames Water raise no objection based on the information provided.

7.14.13 As the site is within 15 metres of a strategic sewer, Thames Water have requested an appropriately worded planning condition requiring submission of a Piling Method Statement.

7.14.14 Thames Water recognises that this catchment is subject to high infiltration flows during certain groundwater conditions. However, they do not consider that the scale of the proposed development would materially affect the sewer network and as such they have no objection. Thames Water recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities.

### ***Ground Water***

7.14.15 The proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 1 (SPZ1) corresponding to Pumping Station (SPRW) which is for public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd. In addition, this proposed development is within close proximity of two other Affinity Water pumping stations with the potential to adversely impact water quality for public water supply.

7.14.16 As set out above, planning application 19/1179/FUL was refused on grounds that it had not been demonstrated that the proposed development (particularly as a result of piling and dewatering) would not have an adverse impact on the quality and quantity of groundwater. Following the appeal dismissal the applicant has engaged with Affinity Water and further detailed technical assessment has been undertaken and submitted with the current application in response to the Inspectors decision.

7.14.17 Following the refusal of planning permission ref. 19/1179/FUL and subsequent dismissal at appeal, Affinity Water have confirmed that they have provided the developer and their consultants with a significant amount of data to inform a DQRA and Piling RAMS that has influenced the construction and piling process, and implements mitigation measures and controls to reduce any risks to public water supply during construction and post construction. In addition, Affinity Water have advised that they have carried out an extensive ongoing engagement during the development of these documents and have been given the opportunity to review and comment on the drafts and final versions before this application was submitted.

7.14.18 Affinity Water acknowledge the engagement and cooperation in this process from the developer and their consultants and the subsequent changes, amendments and adjustments that have been made to the application, to address the concerns they highlighted in response to the previous application.

7.14.19 Affinity Water consider that the risk to public water supply still remains due to the proximity of the development to the pumping stations, however, they recognise that these risks can be managed, provided the agreed plans are thoroughly adhered to. Therefore Affinity Water do not object to the planning application but request that a number of planning conditions are included should planning permission be granted. They also emphasise the importance of regular consultation and dialogue throughout the construction phase alongside the proposed monitoring programme, to ensure that risks to public water supply are effectively managed. As discussed earlier in the report, the Environment Agency raise no objection subject to conditions.

### 7.15 Refuse and Recycling

7.15.1 Policy DM10 (Waste Management) of the DMLDD advises that the Council will ensure that there is adequate provision for the storage and recycling of waste and that these facilities are fully integrated into design proposals. New developments will only be supported where:

- i) The siting or design of waste/recycling areas would not result in any adverse impact to residential or work place amenity
- ii) Waste/recycling areas can be easily accessed (and moved) by occupiers and by local authority/private waste providers
- iii) There would be no obstruction of pedestrian, cyclists or driver site lines

- 7.15.2 The County Council's adopted waste planning documents reflect Government policy which seeks to ensure that all planning authorities taken responsibility for waste management. This includes ensuring that development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and ensuring that the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.
- 7.15.3 HCC would therefore require a Site Waste Management Plan (SWMP) to be submitted which should aim to reduce the amount of waste produced on site. As a minimum the waste types should be defined as inert, non-hazardous and hazardous. The SWMP should be set out as early as possible so that decisions can be made relating to the management of waste during construction, whereby building materials made from recycled and secondary sources can be used within the development. This will help in terms of estimating what types of containers/skips are required for the stages of the project and when segregation would be best implemented for various waste streams. It will also help in determining the costs of removing waste for a project. The total volumes of waste during enabling works (including demolition) and construction works should also be summarised.
- 7.15.4 The proposed development site is located north of the Safeguarded Area SA143 STW Maple Lodge. It should be noted that Maple Lodge Sewage Treatment Works is a permanent existing operational waste site which is safeguarded under HCC Waste Policy 5: Safeguarding of Sites, in the County Council's Waste Core Strategy and Development Management Policies document, adopted November 2012 as they contribute to a strategic network of waste management provision within the county. Proposals should not prejudice the site's use a sewage treatment works.
- 7.15.5 In relation to minerals, the site falls entirely within the 'Sand and Gravel Belt' as identified in HCC's Minerals Local Plan 2002 – 2016. The Sand and Gravel Belt', is a geological area that spans across the southern part of the county and contains the most concentrated deposits of sand and gravel throughout Hertfordshire. In addition the site falls entirely within the sand and gravel Mineral Safeguarding Area within HCC's Proposed Submission Minerals Local Plan, January 2019.
- 7.15.6 Adopted Minerals Local Plan Policy 5 (Minerals Policy 5: Mineral Sterilisation) encourages the opportunistic extraction of minerals for use on site prior to non-mineral development. Opportunistic extraction refers to cases where preparation of the site for built development may result in the extraction of suitable material that could be processed and used on site as part of the development. This may include excavating the foundations and footings or landscaping works associated with the development. Policy 8: Mineral Safeguarding, of the Proposed Submission document relates to the full consideration of using raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.
- 7.15.7 The county council, as the Minerals Planning Authority, encourage the opportunistic use of these deposits within the developments, should they be found when creating the foundations/footings. Opportunistic use of minerals will reduce the need to transport sand and gravel to the site and make sustainable use of these valuable resources.
- 7.15.8 Space for the storage of refuse and re-cycling is included within the service yards adjacent to both Units. Whilst it is anticipated that collections would be privately operated, the Council's Waste and Environment Manager has reviewed the submitted details and has raised no objections. Elevational details of the storage areas has not been submitted so would be secured via condition on any grant of consent.
- 7.16 Infrastructure Contributions

- 7.16.1 Policy CP8 of the Core Strategy requires development to make adequate contribution to infrastructure and services. The Three Rivers Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on 1 April 2015. The Charging Schedule sets out that the application site is within 'Area A' within which the charge per sq.m of non-residential development is £nil.
- 7.16.2 In order to make the proposals acceptable to maximize sustainable travel options, HCCHA recommends that developer contributions of £6000 are sought via a Section 106 Agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. The applicant raises no objection to this requirement and a S106 agreement to secure the contribution is being progressed.
- 7.17 Conclusion & Planning Balance
- 7.17.1 Paragraph 11 of the NPPF states that; *"Plans and decisions should apply a presumption in favour of sustainable development"*.
- 7.17.2 For decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay;*
- 7.17.3 Paragraph 8 of the NPPF sets out that there are three overarching and independent objectives to achieving sustainable development: an economic objective; a social objective, and an environmental objective.
- 7.17.4 The proposed use of the site and the principle of development accords with the Core Strategy (adopted October 2011) and Site Allocations LDD (adopted November 2014). This is considered to add substantial weight in favour of the grant of planning permission for the development.
- 7.17.5 The proposed development would not materially harm the living conditions of surrounding residents and would not result in demonstrable harm to the character or appearance of the area, the wider landscape or the Green Belt. It would be acceptable in terms of its impact on trees, and the site would not be at risk of flooding or increase the risk of flooding elsewhere. There would not be any unacceptable impact on groundwater on or off the application site or public water supply. It would not harm the setting of any heritage assets. Appropriate levels of parking would be provided on site.
- 7.17.6 Subject to the applicants' entry into a section 106 agreement providing for biodiversity loss compensation and BNG and the attachment of conditions C5, C28 and C29 below, the proposed development would comply with Core Strategy policy CP9 and LDD policy DM6 as well as advice in the Framework.
- 7.17.7 The proposed development would provide a number of benefits, including contributing to meeting the need for B1c, B2 and B8 floorspace set out in the South West Herts Economic Study (2018) and would create jobs within the District, both full time and during construction. This would be of benefit to the local economy and is afforded substantial weight. Other benefits include improvements to the local highway network through the proposed highways works to the access road and junction and improvements to drainage.
- 7.17.8 The proposed development is considered to have overcome the planning issues underlying the previous refusal and appeal dismissal and is considered to be in accordance with development plan policy and is recommended for approval subject to the completion of the S106 Agreement (BNG and Travel Plan requirements) and the conditions as set out below. As set out in Informative 7 below, it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section



278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements.

## **8 Recommendation**

8.1 That the decision be delegated to the Director of Community and Environmental Services to write to the Planning Inspectorate to confirm that in the absence of the appeal against non-determination, planning permission would have been GRANTED, subject to the following conditions and subject to the completion of a S106 Agreement:

### **C1 Time**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.

### **C2 Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans:

17019-C4P-AV-00-DR-A-0100 REV P5  
17019-C4P-AV-00-DR-A-0500\_P17  
17019-C4P-AV-00-DR-A-0101 REV P4  
17019-C4P-AV-ZZ-DR-A-0700 REV P4  
17019-C4P-B1-R-DR-A-2001 REV P4  
17019-C4P-B1-ZZ-DR-A-2000 REV P4  
17019-C4P-B1-ZZ-DR-A-2100 REV P5  
17019-C4P-B2-R-DR-A-2001 REV P4  
17019-C4P-B2-ZZ-DR-A-2000 REV P4  
17019-C4P-B2-ZZ-DR-A-2100 REV P4  
55-01 REV P17  
65-03 REV P16  
65-04 REV P6  
05-885-700 REV H

Reason: For the avoidance of doubt, in the proper interests of planning in accordance with Policy SA2 of the Site Allocations Local Development Document (adopted November 2013), Policies PSP3, CP1, CP6, CP8, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM4, DM6, DM8, DM9, DM10, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

### **C3 Construction Traffic Management Plan (Highway Authority and Highways England)**

No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Expected frequency of vehicles during construction and size and weight of these vehicles;
- c. Access arrangements to the site;
- d. Traffic management requirements;
- e. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);

- f. Siting and details of wheel washing facilities;
- g. Cleaning of site entrances, site tracks and the adjacent public highway;
- h. Timing of construction activities (including delivery times and removal of waste);
- i. Post construction reinstatement of the working areas and/or temporary access to the highway;

Reason: This is a pre-commencement condition in order to protect highway safety and the amenity of other users of the public highway and rights of way and to mitigate any adverse impact from the development on the M25 in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

#### C4 Site Levels – Details (TRDC)

No development shall take place until details of the existing site levels and the proposed finished floor levels and sections of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: This condition is a pre commencement condition in order to ensure a satisfactory form of development relative to surrounding buildings and landscape and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

#### C5 Scheme for compensatory habitat creation (Environment Agency)

No development shall take place until a scheme for the provision and management of the eight-metre buffer zone adjacent to the Maple Lodge Ditch main river for the benefit of biodiversity has been submitted to, and agreed in writing by, the Local Planning Authority and implemented as approved.

Reasons: This condition is a pre commencement condition in the interest of biodiversity net gain and to meet the requirements of Policies CP1 and CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

#### C6 Drainage Scheme – Final Design (LLFA)

No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T\_17\_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall also include:

1. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs.
2. All corresponding detailed calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + climate change event.
3. Details of half drain down times of the surface water attenuation.
4. Clarification on the volumes of water to be stored within each SuDS attenuation feature / permeable paving sub-base etc.
5. Detailed engineering drawings, calculations and evidence to secure and safeguard the SuDS features from groundwater.
6. Detailed engineering drawings and evidence of the proposed surface water pump including details of safeguarding and a management and maintenance plan.

7. Detailed management and maintenance plan for the Maplodge Ditch Main River and a timetable for implementing maintenance and the removal of any necessary blockages.
8. Exploration of above ground SuDS, to include the provision of filter strips / filter trenches to support effective and sustainable management and treatment of surface water.
9. Silt traps for the protection of any tanked elements.
10. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as permeable paving etc. and reducing the requirement for any underground storage. To include details of products and maintenance.

Reason: This is a pre commencement condition to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

**C7 Groundwater Levels (Environment Agency)**

No development should take place until a monitoring and maintenance plan in respect of groundwater levels across the site and the Maple lodge nature reserve including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority.

Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports.

Reasons: This condition will ensure that the development does not cause undue detriment to groundwater levels upon which the Maple Lodge nature reserve relies in line with paragraph 174 of the National Planning Policy Framework and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

**C8 Land Affected By Contamination (Environment Agency & Watford Environmental Health)**

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
1. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This condition will ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by levels of water pollution in line with paragraph 174 of the National Planning Policy Framework and Policy CP1 of the Core Strategy and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C9 Long Term Monitoring and Maintenance Plan for Groundwater (Environment Agency)

No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, has been submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reasons: To ensure that the site does not pose any further risk to human health or the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of and Policy CP1 of the Core Strategy and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C10 Site Waste Management Plan SWMP (Hertfordshire County Council)

Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

Reason: This is a pre commencement condition to promote sustainable development and meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies LDD (adopted July 2013).

C11 Dust Management Plan (Watford Environmental Health)

Prior to the commencement of the development hereby permitted, a Dust Management Plan shall be submitted for the written approval of the Local Planning Authority. The Dust Management Plan shall include best practicable means to be incorporated to minimise dust caused by the permitted operations and to prevent the emission of dust from the site. The management of dust emissions shall thereafter be carried out in accordance with the approved plan.

Reason: This is a pre-commencement condition in the interests of the amenities of surrounding occupiers during the construction of the development and to meet the requirements of Policy CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

## C12 Arboricultural Method Statement and Tree Protection

No development shall commence on site whatsoever until an arboricultural method statement (prepared in accordance with BS: 5837 (2012) 'Trees in relation to design, demolition and construction') has been submitted to and approved in writing by the Local Planning Authority. This method statement shall include details of any development works with the potential to impact retained trees, such as; demolition, level changes, services, drainage, hard surfaces, foundations, contamination investigation/remediation, archaeological investigations, site facilities/accommodation, contractor parking and equipment/material storage etc. Any encroachment into the RPA of a retained tree will require a detailed design and working specification demonstrating how the works will be carried out to minimise the impact upon the tree. In addition full details of all tree protection, mitigation works and a timetable of site monitoring and arboricultural supervision of works should be included.

The construction methods to be used shall ensure the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with the approved plans. The development shall only be implemented in accordance with the approved method statement.

The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained during construction and until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition; and the ground levels within those areas shall not be altered, nor shall any excavation be made unless in accordance with the agreed method statement. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction, to protect the visual amenities of the trees, area and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

## C13 Materials (TRDC)

Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.

Reason: To prevent the building being constructed in inappropriate materials in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

## C14 Highways Improvements (Highway Authority)

### A. Offsite (Design Approval)

Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawing number MLC-BWB-GEN-XX-DR-TR-0001 S2 rev. P3 have been submitted to and approved in writing by the Local Planning Authority.

**B. Offsite (Implementation / Construction)**

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and to ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011).

**C15 Piling Method Statement (Affinity Water, Thames Water, Environment Agency)**

No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure and the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS). Piling has the potential to impact on local underground sewerage utility infrastructure in addition to contaminant transport to the Chalk aquifer (including manganese), turbidity in the Chalk aquifer and potentially at the PWS abstractions, and on ground permeability, which may affect groundwater levels and flows. This condition is necessary to protect underground infrastructure and water supply in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

**C16 Decommission of Investigation Boreholes (Affinity Water)**

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected (and details of the consultation undertaken with Affinity Water). The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

**C17 Dewatering Method Statement (Affinity Water)**

No dewatering shall take place. Should dewatering be necessary, no dewatering shall occur until a Dewatering Method Statement (detailing the dewatering method and predicted impact on groundwater flow and details of the consultation undertaken with Affinity Water) has been submitted to and approved in writing with the Local Planning Authority. Any dewatering must be undertaken in accordance with the terms of the approved dewatering method statement.

Reason: The proposed work will be within the source protection zone of one or more of Affinity Water's groundwater abstractions for Public Water Supply (PWS) and within

500 m of the Clubhouse/Marsh Lakes within Maple Lodge Nature Reserve. This condition is necessary to protect water supply and the environment in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

C18 Conditions to be displayed on site (Affinity Water)

A copy of all conditions addressing groundwater protection, foundation design and site drainage, and any other groundwork or surface water matters and details submitted during the discharge of conditions, and approved pursuant and subsequent to this consent, shall be displayed at the site office at all times.

The Site Manager will ensure that the contents and intent of each are known to any persons given responsibility for operational management or control of the site, or carrying out works on that site.

Reason: To ensure that any potential contamination or other activity likely to pose a risk to groundwater and public water supply, is recognised, monitored and managed by all contractors on site, in good time in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policy DM6 and DM8 of the Development Management Policies LDD (adopted July 2013).

C19 Noise Assessment (TRDC Environmental Health)

Prior to operation of the site by any prospective tenant, a noise assessment that demonstrates that the rating noise level from any fixed or mobile mechanical plant or commercial activity including all noise associated with deliveries and vehicle movements shall not exceed the background sound level representative of the period being assessed at noise sensitive receptors shall be submitted to and approved in writing by the Local Planning Authority. The noise assessment should be carried out in line with the methodology presented in BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound. The development shall thereafter be implemented and operated in accordance with the approved noise assessment and any measures contained therein.

Reason: This is a pre-operation condition to ensure that nearby residential properties are not subjected to excessive noise and disturbance having regard to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

C20 Verification Report (Environment Agency and Watford Environmental Health)

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C21 Borehole Management (Environment Agency)

A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reasons: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 174 of the National Planning Policy Framework and to prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body in accordance with Policies CP1 and CP8 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

C22 Provision of Parking & Access (Highway Authority)

Prior to the first use of the development hereby permitted the proposed access road, on-site car parking, electric vehicle charging provision, cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and in accordance with Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C23 Travel Plan (Highway Authority)

Prior to the first use of the development hereby permitted a detailed Travel Plan for the site, based upon the Hertfordshire Council document Hertfordshire's Travel Plan Guidance, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented at all times.

Reason: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

C24 Cycle Parking (Highway Authority and TRDC)

Prior to the first use of the development hereby permitted, detailed designs for the parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.

Reason: To ensure the provision of cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C25 Electric Vehicle Charging Points (EVCPs) (Highway Authority and TRDC)

Prior to the first use of the development hereby permitted, the details and design of EVCPs shall be submitted to and approved in writing by the Local Planning



Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of the units and permanently maintained and retained.

Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

#### C26 Refuse and Recycling Details (TRDC)

Prior to first use of the development a scheme for the separate storage and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be brought into use until the approved scheme has been implemented and these facilities should be retained permanently thereafter.

Reason: To ensure that satisfactory provision is made, in the interests of amenity and to ensure that the visual appearance of such provision is satisfactory in compliance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM10 of the Development Management Policies document (adopted July 2013).

#### C27 Landscaping (TRDC)

Prior to the first use of the development hereby permitted, a scheme of hard and soft landscaping, which shall include the location and details of all existing trees and hedgerows to be retained, and the recommendations of Greengage Preliminary Ecological Appraisal (REF 550987dpJan21FV02\_PEA), together with a scheme detailing measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.

All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first use of the development hereby permitted.

All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any of the proposed soft landscaping is removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (i.e. November to March inclusive).

Reason: This condition is required to ensure the completed scheme has a satisfactory visual impact on the character and appearance of the area. It is required to be a pre commencement condition to enable the LPA to assess in full the trees to be removed and the replacement landscaping requirement before any works take place, and to ensure trees to be retained are protected before any works commence in the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

#### C28 Landscape & Ecology Management Plan (TRDC & Herts Ecology)

Prior to the first use of the development hereby permitted, a landscape and ecology management plan, including long term design objectives, management responsibilities, timescales and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority.

The landscape and ecology management plan shall include details for the management and maintenance of the 8m buffer zone between Unit 2 and the Maple Lodge Ditch main river for 15 years and include details for replacement in this location if any of the proposed soft landscaping within this zone is removed, die, become severely damaged or diseased. The landscape and ecology management plan shall be carried out as approved.

Reason: To ensure that the approved landscaping is satisfactorily maintained, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

#### C29 Lighting Design – Biodiversity (Herts Ecology)

Prior to first use of the development a “lighting design strategy” in accordance with current guidance from Bat Conservation Trust and Institution of Lighting Professionals, for features or areas to be lit, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for nocturnal species and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity and to meet the requirements of Policies CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6 and DM9 of the Development Management Policies LDD (adopted July 2013).

#### C30 External Lighting (TRDC Environmental Health)

Prior to first use of the development a scheme for external lighting including details of the position, height, design and intensity shall be submitted to and approved in writing by the Local Planning Authority. The external lighting solution is to be designed in accordance with CIBSE external lighting guidelines, BS 5489 and BS 5266. The lighting shall be installed in accordance with the approved details before the use commences.

Reason: In the interests of visual amenity to meet the requirements of Policies CP1, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

#### C31 Boundary Treatments (TRDC)

A plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to first use

of the development in accordance with the approved details and shall be permanently maintained as such thereafter.

Reason: To ensure that appropriate boundary treatments are proposed to safeguard the amenities of neighbouring properties and the character of the locality in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

**C32 Sustainability – In Accordance With (TRDC)**

Prior to first use of the development the measures detailed in Section 5 within the KGA (UK) Ltd Energy Statement (ref. 5000 rev 4, dated February 2021) shall be incorporated into the approved development and thereafter permanently maintained.

Reason: To ensure that the development meets the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM4 of the Development Management Policies LDD (adopted July 2013) and to ensure that the development makes as full a contribution to sustainable development as possible.

**C33 Flood Risk Assessment – In Accordance With (LLFA)**

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy for Maple Cross Rickmansworth, Issue 1.4, dated 22 August 2019, Ref: T/17/1999/FRA, prepared by Tier Consult Ltd and the General Arrangement Drawing showing proposed foul and surface water drainage layout Sheet 1, Project No. T\_17\_1999, Drawing No. 55-01, Rev. P17, dated 25.02.2021, prepared by Tier Consult. The scheme shall include the following mitigation measures:

1. Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.  
[www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk) 3
2. Restrict surface water discharge into Maplodge Ditch (via pump) to the QBAR Greenfield run-off rate (6.5l/s).
3. Implement drainage strategy based on lined permeable paving, lined cellular attenuation and discharge via surface water pump into the nearest watercourse, Maplodge Ditch, which is Main River.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policy DM8 of the Development Management Policies LDD (adopted July 2013).

**C34 SuDS Management & Maintenance (LLFA)**

Upon completion of the drainage works for the site and in accordance with the timing / phasing arrangement, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Provision of a complete set of as built drawings for site drainage.
2. Maintenance and operational activities.
3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to meet the requirements of Policy CP1 of the

Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

**C35 Unidentified Contamination (Environment Agency and Watford Environmental Health)**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: No investigation can completely characterise a site. This condition ensures that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

**C36 Infiltration of Surface Water onto the Ground (Environment Agency)**

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the National Planning Policy Framework. To prevent further deterioration of a water quality element to a lower status class of adjacent surface waterbodies and prevent the recovery of a drinking water protected area in the Mid-Chilterns Chalk groundwater body and to meet the requirements of Policy CP1 of the Core Strategy (adopted October 2011) and Policies DM8 and DM9 of the Development Management Policies LDD (adopted July 2013).

**C37 Noise – no refrigerated HGVs or use of tug units (TRDC Environmental Health)**

There shall be no operation of refrigerated HGVs or of tug units without prior details being submitted to and approved in writing by the Local Planning Authority which demonstrate that the proposed operation would not give rise to unacceptable noise levels.

Reason: To ensure that nearby residential properties are not subjected to excessive noise and disturbance having regard to Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

**8.2 Informatives:**

**11 With regard to implementing this permission, the applicant is advised as follows:**

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a

dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

12 Construction Hours:

The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

13 Positive & Proactive:

The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The application has been submitted with amendments/additional information following the refusal and subsequent dismissal at appeal of a previous application, and further information has also been submitted during the course of this application. This has resulted in a form of development that maintains/improves the economic, social and environmental conditions of the District.

14 Section 106 Agreements:

The applicant is reminded that this planning permission is subject to either a unilateral undertaking or an agreement made under the provisions of Section 106 of the Town and Country Planning Act 1990.

- 15 Site Notice Removal:  
The applicant is hereby advised to remove all site notices on or near the site that were displayed pursuant to the application.
- 16 Thames Water – Advisory Notes:  
Please read our guide ‘working near our assets’ to ensure your workings will be in line with the necessary processes you need to follow if you’re considering working above or near our pipes or other structures. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.
- Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk) Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to: Thames Water Developer Services, Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB.
- Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- There are easements and wayleaves running through the site. The company will seek assurances that it will not be affected by the proposed development. The applicant should contact Thames Water to discuss their proposed development in more detail. All enquiries from developers in relation to proposed developments should be made to Thames Waters Developer Services team. Their contact details are as follows: Thames Water Developer Services, Reading Mail Room, Rose Kiln Court, Rose Kiln Lane, Reading, RG2 0BY, Tel: 0800 009 3921, Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)
- 17 Construction standards for works within the highway (S278):  
The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the necessary off-site highway improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>
- 18 Environmental Health Informatives:  
Vehicles should meet the most recent European emissions standards and relevant guidance such as IAQM Guidance should be followed. Information for Developers and guidance documents can be found online at:  
[https://www.watford.gov.uk/info/20011/business\\_and\\_licensing/349/contaminated\\_land](https://www.watford.gov.uk/info/20011/business_and_licensing/349/contaminated_land)
- 19 Secured By Design:  
It is recommended that CCTV be installed to cover the site / warehouses (please refer to comments of Herts Constabulary).
- 110 Advertisement Consent:  
This Decision relates only to a grant of planning permission. The applicant is advised that any signage may need consent under separate cover.

111 Environment Agency Advice Notes:

Additional Risk Assessment – The applicant has proposed the following further works in relation to the Maple Lodge Nature Reserve:

*1. A controlled waters risk assessment conducted with the nature reserve identified as a groundwater receptor of potential contamination arising from the site, and a risk assessment undertaken to determine if there is a significant risk of pollution arising from the development To comprise a description of potential contamination sources, a description of the receptor, identification of pathways between them, and a description of whether the development will have any impact on potential contaminant transport from the site to the receptor.*

*2. A semi-quantitative assessment of long and short term impacts to water quantity and quality drawing on the detailed and robust site investigation, monitoring information, conceptualisation and Detailed Quantitative Risk Assessment works already carried out to date and submitted. To include semi-quantitative assessment of groundwater and surface water flows between the site and the nature reserve, and an assessment of potential impacts arising from turbidity.*

*3. Detailed drawings of the location and the construction of the proposed development to be provided alongside a Piling Method Statement and Risk Assessment which includes details of timing of works, methods and materials to be adopted.*

The Environment Agency would expect the outcomes of proposals 1 & 2 to be included in any future consultation on Condition 8 (Land affected by Contamination) and the outcome of proposal 3 to be included in any future consultation on our Condition 15 (Piling).

General Advice – The Environment Agency recommend that developers should:

- Follow the risk management framework provided in Land Contamination: Risk Management (formerly CLR11), when dealing with land affected by contamination.
- Refer to the Environment Agency Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed. The Planning Practice Guidance defines a "Competent Person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation." (<http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary>)
- Refer to the contaminated land pages on GOV.UK for more information.
- We expect the site investigations to be carried out in accordance with best practice guidance for site investigations on land affected by land contamination. E.g. British Standards when investigating potentially contaminated sites and groundwater.

DQRA/Remediation – A Detailed Quantitative Risk Assessment (DQRA) for controlled waters using the results of the site investigations with consideration of the hydrogeology of the site and the degree of any existing groundwater and surface water pollution should be carried out. Following the DQRA, a Remediation Options Appraisal to determine the Remediation Strategy in accordance with the Land Contamination: Risk Management guidance.

Flood Risk Activity Permit – The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549 or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk). The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.